

# **ATTACHMENT 35**

HIGHLY CONFIDENTIAL

Lawrence, David

July 11, 2014

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IN THE UNITED STATES DISTRICT COURT FOR  
The EASTERN DISTRICT OF PENNSYLVANIA

IN RE: PROCESSED EGG PRODUCTS  
ANTITRUST LITIGATION

MDL NO. 2002  
08-md-02002

THIS DOCUMENT RELATES TO  
Kraft Foods Global, Inc., et al  
Vs. United Egg Producers, Inc., HIGHLY CONFIDENTIAL  
Et al., No. 2:12-cv-0008-GP

Dallas, Texas

Friday July 11, 2014

Deposition of:

DAVID LAWRENCE

called for oral examination by counsel for Defendant  
Daybreak Foods, at Gibson, Dunn & Crutcher, 2100  
McKinney Avenue, Suite 1100, City of Dallas, County of  
Dallas, and State of Texas, before Gail Spurgeon, a  
Certified Court Reporter in and for the State of Texas,  
beginning at 10:05 a.m., when were present on behalf of  
the respective parties:

Henderson Legal Services, Inc.

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Lawrence, David

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APPEARANCES

For the Plaintiff Safeway, Inc.:  
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ALSO PRESENT:  
Anthony Marlar, Videographer

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PROCEEDINGS

THE VIDEOGRAPHER: We're on the record.

This is the videotaped deposition of David Lawrence, taken on July the 11th, 2014. The time is now approximately 10:05 a.m. This deposition is being taken in the matter of In re: Processed Egg Products Antitrust Litigation, in the United States District Court for the Eastern District of Pennsylvania, Case No. MDL, Docket No. 2002 08-MD-02002.

This deposition is taking place in Dallas, Texas. My name is Anthony Marlar. I'm the videographer representing Henderson Legal Services.

Will counsel please identify themselves for the record?

MR. FONTECILLA: Good morning. Adrian Fontecilla, Proskauer Rose, on behalf of Defendant Daybreak Foods.

MR. MURRAY: Kevin Murray with Kenny Nachwalter on behalf of Plaintiff Safeway, Inc., and the witness, Mr. Lawrence.

(Discussion off the record.)

DAVID LAWRENCE,  
having been first duly sworn, testified as follows:

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<p style="text-align: right;">6</p> <p>1 EXAMINATION</p> <p>2 BY MR. FONTECILLA:</p> <p>3 Q. Good morning, Mr. Lawrence.</p> <p>4 <b>A. Good morning.</b></p> <p>5 Q. Could you spell your full name for the record,</p> <p>6 please, middle name also?</p> <p>7 <b>A. David Nelson Lawrence, D-a-v-i-d N-e-l-s-o-n</b></p> <p>8 <b>L-a-w-r-e-n-c-e.</b></p> <p>9 Q. Have you ever gone by any other names or</p> <p>10 aliases?</p> <p>11 <b>A. No.</b></p> <p>12 Q. And have you ever been deposed before?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. And how many times have you been deposed?</p> <p>15 <b>A. Once.</b></p> <p>16 Q. And when was that?</p> <p>17 <b>A. About 2003.</b></p> <p>18 Q. And in what case were you deposed?</p> <p>19 <b>A. It was in regard to a personal injury due to</b></p> <p>20 <b>some foreign material in a frozen TV dinner.</b></p> <p>21 Q. And did the case in which you were deposed or</p> <p>22 the testimony you gave in any way have anything to do</p> <p>23 with eggs or egg products?</p> <p>24 <b>A. No.</b></p> <p>25 Q. Do you understand that you're under oath today?</p>	<p style="text-align: right;">8</p> <p>1 <b>A. All right. Yes.</b></p> <p>2 Q. If you don't understand a question, please just</p> <p>3 let me know, and I'll rephrase it. Okay?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. And -- but if you do answer a question, I'll</p> <p>6 assume you understood it; is that fair?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. Your attorney, Mr. Murray, may object from time</p> <p>9 to time today. Unless he instructs you not to answer,</p> <p>10 the objections are for the record, and you still have to</p> <p>11 answer the question. Do you understand that?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. Is there anything, medical or otherwise, that</p> <p>14 might impair your ability to testify completely and</p> <p>15 truthfully today?</p> <p>16 <b>A. No.</b></p> <p>17 Q. Could you spell your current address for the</p> <p>18 record, please?</p> <p>19 <b>A. 229 P-a-r-k-e-r R-o-a-d, V-a-n A-l-s-t-y-n-e,</b></p> <p>20 <b>T-X 75495.</b></p> <p>21 Q. You worked at Safeway previously; is that</p> <p>22 correct?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. When did you start working for Safeway?</p> <p>25 <b>A. 1973.</b></p>
<p style="text-align: right;">7</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. Do you understand that even though we're here</p> <p>3 in a conference room, your testimony today is as if it</p> <p>4 were before a judge or a jury?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. And you understand that your testimony today</p> <p>7 could be used if you were called to testify at trial in</p> <p>8 this case?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. All right. I'm going to go over a couple</p> <p>11 ground rules which you might be familiar with from the</p> <p>12 last time you were deposed, but I think it was -- I</p> <p>13 assume it was some time ago, so I'll just go over them</p> <p>14 as a refresher. We'll try not to talk over each other.</p> <p>15 If you could let me finish my questions, I'll let you</p> <p>16 finish your answers. Do you understand that?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. The second one is we need audible, verbal</p> <p>19 answers, no nods of heads, no huh-uhs, so the court</p> <p>20 reporter can get everything down today. Do you</p> <p>21 understand that?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. If you need a break, just let me know. But I</p> <p>24 would just ask that you answer any questions that are</p> <p>25 pending before you take a break. Is that okay?</p>	<p style="text-align: right;">9</p> <p>1 Q. And when did you leave Safeway?</p> <p>2 <b>A. 2009.</b></p> <p>3 Q. Where do you currently work?</p> <p>4 <b>A. I'm currently retired, but do some consulting.</b></p> <p>5 Q. And since 2009 have you worked anywhere other</p> <p>6 than Safeway?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. And could you list those jobs for me, please?</p> <p>9 <b>A. I have done some consulting work for Simply</b></p> <p>10 <b>Fresco, 479-Degree Popcorn, Walgreens, Future Food,</b></p> <p>11 <b>C&amp;F Corporation.</b></p> <p>12 Q. And do you have a consulting company that you</p> <p>13 do that work through?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. What is the name on that company?</p> <p>16 <b>A. Quality Assurance Solutions.</b></p> <p>17 Q. And how would you describe what your -- what</p> <p>18 services your company offers?</p> <p>19 <b>A. Government compliance, quality assurance</b></p> <p>20 <b>programs establishment, development of product</b></p> <p>21 <b>specifications, product development, and line scale-ups.</b></p> <p>22 Q. And have you been doing this work through the</p> <p>23 Quality Assurance company since 2009?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. Have you done any other work, other than the</p>

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<p style="text-align: right;">10</p> <p>1 consulting work through Quality Assurance, since 2009?</p> <p>2 <b>A. No.</b></p> <p>3 Q. Has any of the work that you've done through</p> <p>4 quality assurance related to the animal welfare</p> <p>5 standards for egg laying hens?</p> <p>6 <b>A. No.</b></p> <p>7 Q. Have any of the programs that you've worked</p> <p>8 with or helped set up, or the specifications that you've</p> <p>9 worked with through quality assurance, had to deal with</p> <p>10 the UEP guidelines?</p> <p>11 <b>A. No.</b></p> <p>12 Q. When you started in 1973, if you can remember,</p> <p>13 what was your title at the time?</p> <p>14 <b>A. I was a project employee in the laboratory.</b></p> <p>15 Q. And if you could summarize your time at</p> <p>16 Safeway, what you did between 1973 and about 1998.</p> <p>17 <b>A. I was a plant chemist doing tests in the</b></p> <p>18 <b>manufacturing facility. I was quality assurance</b></p> <p>19 <b>development, establishing programs developing products,</b></p> <p>20 <b>and then was a quality assurance manager for fats and</b></p> <p>21 <b>oils, and which oversaw several manufacturing plants,</b></p> <p>22 <b>the product development stages, and the establishment of</b></p> <p>23 <b>quality assurance programs for those plants.</b></p> <p>24 Q. And I've heard you say a couple times that</p> <p>25 certain work that you've done involved establishing</p>	<p style="text-align: right;">12</p> <p>1 <b>Midwest United States.</b></p> <p>2 Q. And when had you taken that position?</p> <p>3 <b>A. I believe it was 1996.</b></p> <p>4 Q. And until when were you a quality assurance</p> <p>5 auditor for the Midwest?</p> <p>6 <b>A. Until approximately 2001.</b></p> <p>7 Q. And in about 2001 did your position change?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. And how did it change?</p> <p>10 <b>A. I became the quality assurance manager -- or</b></p> <p>11 <b>the manager for the quality assurance program for</b></p> <p>12 <b>corporate branded items.</b></p> <p>13 Q. And how long were you in that position?</p> <p>14 <b>A. Until my retirement in 2009. The -- well, in</b></p> <p>15 <b>2005 I became -- title changed to director.</b></p> <p>16 Q. And when you were a quality assurance auditor</p> <p>17 from about 1996 to about 2001, what were your roles and</p> <p>18 responsibilities related to eggs?</p> <p>19 <b>A. I inspected the egg packing facilities for</b></p> <p>20 <b>Midwest United States.</b></p> <p>21 Q. Would that include farms where eggs were</p> <p>22 produced?</p> <p>23 <b>A. It would include some farms.</b></p> <p>24 Q. And would it also include facilities where</p> <p>25 processed eggs were produced?</p>
<p style="text-align: right;">11</p> <p>1 programs. Could you describe for me what you mean by</p> <p>2 that?</p> <p>3 <b>A. It would be the food safety programs, what type</b></p> <p>4 <b>of tests need to be conducted, at what time they would</b></p> <p>5 <b>be conducted; employee practices, so far as health and</b></p> <p>6 <b>sanitation; and then processing procedures, how</b></p> <p>7 <b>equipment should be used to produce specific products,</b></p> <p>8 <b>you know, timing, volumes, quantities of products mixed.</b></p> <p>9 Q. Would those programs also from time to time</p> <p>10 include requirements or specifications related to the</p> <p>11 animal welfare practices?</p> <p>12 <b>A. Not at that time, no.</b></p> <p>13 Q. And when did specifications or programs that</p> <p>14 you worked with start to include references to animal</p> <p>15 welfare?</p> <p>16 <b>A. Approximately 2005, when the specifications...</b></p> <p>17 Q. Are you sure that you didn't work with any</p> <p>18 animal welfare specifications or organizations before</p> <p>19 2005?</p> <p>20 <b>A. We were looking at various programs</b></p> <p>21 <b>industry-wise. Our specifications, I don't believe,</b></p> <p>22 <b>became...</b></p> <p>23 Q. When would you say that -- well, let's go back</p> <p>24 to 1998. What position were you in at Safeway in 1998?</p> <p>25 <b>A. I was a quality assurance auditor for the</b></p>	<p style="text-align: right;">13</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. About what would be the breakdown, if you can</p> <p>3 remember, around that time period between how many farms</p> <p>4 were related to shell eggs and how many of the</p> <p>5 facilities you inspected were related to processing?</p> <p>6 <b>A. Normally, it was for in-line operations, and</b></p> <p>7 <b>depending upon health alerts, I would say maybe</b></p> <p>8 <b>20 percent, 80 percent -- 80 percent packing operations,</b></p> <p>9 <b>20 percent farms.</b></p> <p>10 Q. And what were some of the shell eggs or the egg</p> <p>11 products that these facilities produced?</p> <p>12 <b>A. We were looking at cartoned eggs.</b></p> <p>13 Q. And what would be your roles and</p> <p>14 responsibilities when you inspected those facilities?</p> <p>15 <b>A. We made sure that people were obeying safety</b></p> <p>16 <b>and health hazards, wearing hairnets, proper sanitation,</b></p> <p>17 <b>proper hand-washing practices. We made sure that the</b></p> <p>18 <b>wash baths were properly chlorinated, that they had</b></p> <p>19 <b>their accept/reject programs within acceptable levels,</b></p> <p>20 <b>there were proper handling operations. If these were</b></p> <p>21 <b>USDA inspected operations, we made sure that they</b></p> <p>22 <b>were -- had all the proper files in place.</b></p> <p>23 Q. And just going -- just to be clear, would you</p> <p>24 also inspect the hen houses and -- of layers?</p> <p>25 <b>A. We would occasionally do that. A lot of the</b></p>

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<p style="text-align: right;">14</p> <p>1 packers, because of the possibility of health transfer, 2 there were times we could not do that.</p> <p>3 Q. And as quality assurance auditor, what, if 4 anything, did you look for, in terms of animal welfare 5 when you visited these facilities?</p> <p>6 A. At that time they were not inspecting for 7 animal welfare.</p> <p>8 Q. Would you notice or take note, at any time in 9 your reports or otherwise, about any of the animal 10 welfare practices in place at any particular facility?</p> <p>11 MR. MURRAY: Object to the form of the 12 question.</p> <p>13 A. At that time we did not note animal welfare 14 issues.</p> <p>15 Q. (BY MR. FONTECILLA) And when you say "we did 16 not note," do you mean that it wasn't required for you, 17 as part of your job, to put in the report something 18 about what was going on in terms of animal welfare?</p> <p>19 A. Correct.</p> <p>20 Q. And I'm asking now other than what was required 21 of you in terms of what you would put in a report. My 22 question is more: Did you ever make note of, even if it 23 wasn't required, any of the animal welfare practices in 24 place at any of the facilities?</p> <p>25 A. No.</p>	<p style="text-align: right;">16</p> <p>1 was a promotion. They had the world's fastest omelet 2 maker, and so that's how I became aware of them.</p> <p>3 Q. When you were a quality assurance auditor, do 4 you ever recall hearing about or otherwise learning 5 about UEP husbandry guidelines?</p> <p>6 A. Yes.</p> <p>7 Q. And how did you come to learn about or hear 8 about that?</p> <p>9 A. Through some of the animal rights groups 10 beginning to raise the question of animal rights. Early 11 on, we tried to make ourselves aware of what the animal 12 rights groups were looking for, and what potential 13 options there were for finding some common ground.</p> <p>14 Q. And why or how was that part of your role as a 15 quality assurance auditor?</p> <p>16 A. In quality assurance we tried to anticipate 17 potential problems, just as we would be aware of viral 18 infections and so forth.</p> <p>19 Q. And what was the potential -- excuse me, the 20 potential problem that required you or caused you to 21 learn about the animal husbandry guidelines by UEP?</p> <p>22 A. I think that McDonald's was beginning to have 23 some protests, and we became aware of that.</p> <p>24 Q. And how did you become aware of the protests 25 that -- related to McDonald's?</p>
<p style="text-align: right;">15</p> <p>1 Q. Were you ever aware of what the cage space 2 specifications were of any particular facility?</p> <p>3 If you need me to rephrase the question --</p> <p>4 A. Yeah. Could you rephrase that?</p> <p>5 Q. Sure. So when you were a quality assurance 6 auditor, you testified that you would sometimes go and 7 visit the facilities and, in fact, you had to inspect 8 them for various issues, right?</p> <p>9 A. Right.</p> <p>10 Q. When you went, did you ever ask or discuss or 11 note, either in writing or just for yourself, anything 12 about what the cage space specifications were of a 13 particular facility?</p> <p>14 A. Oh. No.</p> <p>15 MR. MURRAY: Object to the form of the 16 question.</p> <p>17 You can answer.</p> <p>18 A. No.</p> <p>19 Q. (BY MR. FONTECILLA) When you were a quality 20 assurance auditor between 1996 and about 2001, do you 21 recall ever hearing the term "the United Egg Producers"?</p> <p>22 A. Yes.</p> <p>23 Q. And how do you recall hearing about that when 24 you were a quality assurance auditor?</p> <p>25 A. Well, the first time I was aware of them, there</p>	<p style="text-align: right;">17</p> <p>1 A. They were in the news.</p> <p>2 Q. And how did you use that information as a 3 quality assurance auditor?</p> <p>4 A. We just began to look at industry practices, 5 best practices, current conditions in the -- in the 6 houses.</p> <p>7 Q. And what were the current conditions in the 8 houses at the time when this was first raised?</p> <p>9 MR. MURRAY: Object to the form of the 10 question.</p> <p>11 A. The houses -- some of the houses had very high 12 ammonia areas -- levels, difficulty dealing with waste 13 materials, lagoon problems with materials, and then the 14 use of battery cages. Some of the animal rights groups 15 felt they were overcrowded.</p> <p>16 Q. (BY MR. FONTECILLA) And what was the role of 17 McDonald's in addressing the potential problem that you 18 described?</p> <p>19 MR. MURRAY: Object to the form of the 20 question, foundation.</p> <p>21 A. To the best of my knowledge, they were just 22 trying to deal with the animal rights groups.</p> <p>23 Q. (BY MR. FONTECILLA) And what do you recall 24 about their efforts to try to deal with the animal 25 rights groups?</p>

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<p style="text-align: right;">18</p> <p>1 <b>A. I -- I honestly can't recall.</b></p> <p>2 Q. Do you remember whether -- while you were a</p> <p>3 quality assurance auditor, ever hearing about McDonald's</p> <p>4 adopting animal welfare specifications for their egg</p> <p>5 suppliers?</p> <p>6 <b>A. I think that came later, but I'm not -- I'm not</b></p> <p>7 <b>sure of the timeline on that.</b></p> <p>8 Q. And could you describe for me, you know, other</p> <p>9 ways that you heard about the United Egg Producers</p> <p>10 animal husbandry guidelines while you were a quality</p> <p>11 assurance auditor?</p> <p>12 <b>A. I think the husbandry guidelines, Poultry</b></p> <p>13 <b>Magazine or some of poultry trade magazines talked about</b></p> <p>14 <b>the development of the guidelines.</b></p> <p>15 Q. And these were -- would it be fair to</p> <p>16 characterize these as trade publications in your</p> <p>17 industry?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. And you would read these as -- to learn about</p> <p>20 what was going on in the industry at the time --</p> <p>21 <b>A. Right.</b></p> <p>22 Q. -- is that fair?</p> <p>23 <b>A. Egg Producer Magazine, I think, was one, or</b></p> <p>24 <b>Poultry.</b></p> <p>25 Q. And do you recall about when you first read</p>	<p style="text-align: right;">20</p> <p>1 meetings about the animal husbandry guidelines?</p> <p>2 <b>A. We would openly discuss them. I don't think</b></p> <p>3 <b>you would describe them as formal presentations or</b></p> <p>4 <b>speeches, but...</b></p> <p>5 Q. About how many -- how many quality assurance</p> <p>6 auditors would attend these annual meetings?</p> <p>7 <b>A. There would be 12.</b></p> <p>8 Q. Is it fair to describe it that the 12 auditors,</p> <p>9 each one handled a particular geographic area for</p> <p>10 Safeway?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. And when, if you -- when do you recall being</p> <p>13 the first annual meeting of quality assurance auditors</p> <p>14 where the UEP animal husbandry guidelines was first</p> <p>15 raised?</p> <p>16 <b>A. It would have been the early 2000s. I can't --</b></p> <p>17 <b>2000, 2001, 2002.</b></p> <p>18 Q. Do you recall at that meeting, at the first</p> <p>19 meeting, what was discussed about the guidelines?</p> <p>20 <b>A. Not exactly, but it would have been space</b></p> <p>21 <b>limitations, ammonia levels, molting, and debeaking.</b></p> <p>22 Q. And what was discussed at the meeting about</p> <p>23 those different aspects of the guidelines that you just</p> <p>24 listed?</p> <p>25 <b>A. Simply the proposals, what were being proposed.</b></p>
<p style="text-align: right;">19</p> <p>1 about the animal husbandry guidelines?</p> <p>2 <b>A. No, I don't.</b></p> <p>3 Q. And do you recall what you did when you learned</p> <p>4 about the animal husbandry guidelines, about their</p> <p>5 existence?</p> <p>6 <b>A. I mostly just read -- read the articles, made</b></p> <p>7 <b>note of some of the issues and conditions, and became</b></p> <p>8 <b>more aware of what they were looking to change.</b></p> <p>9 Q. And did you -- do you ever recall, while you</p> <p>10 were a quality assurance auditor, discussing those</p> <p>11 guidelines with anyone else at Safeway?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. And who do -- who did you discuss that with?</p> <p>14 <b>A. Normally with the other quality assurance</b></p> <p>15 <b>auditors.</b></p> <p>16 Q. And if you could describe, in what context</p> <p>17 would the discussions occur?</p> <p>18 <b>A. We would have annual meetings, and during the</b></p> <p>19 <b>meetings we would discuss hot topics, current problems</b></p> <p>20 <b>with broccoli issues, shortages, quality problems to</b></p> <p>21 <b>look for across the country, and then the growing</b></p> <p>22 <b>concern for animal rights and programs that were</b></p> <p>23 <b>available.</b></p> <p>24 Q. And did you ever present any information, or</p> <p>25 make any speeches or comments at any of these annual</p>	<p style="text-align: right;">21</p> <p>1 Q. And what were the proposals?</p> <p>2 <b>A. I don't remember exactly. There were cage</b></p> <p>3 <b>limitations. I don't remember the square inches and</b></p> <p>4 <b>bird space, and actually don't remember the debeaking</b></p> <p>5 <b>specifics or ammonia levels, so...</b></p> <p>6 Q. And obviously, I understand it's a while back</p> <p>7 and there are --</p> <p>8 <b>A. Yeah.</b></p> <p>9 Q. -- specifics that you might not remember, but</p> <p>10 generally, do you recall what the -- how the discussion</p> <p>11 proceeded about the different aspects and the proposals</p> <p>12 that you described?</p> <p>13 <b>A. It was more just a factual level. These are</b></p> <p>14 <b>what are being proposed. This may have been, Penn State</b></p> <p>15 <b>says this, the UEP says this.</b></p> <p>16 Q. So it would be fair to characterize the</p> <p>17 discussion as learning about the guidelines?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. And did -- at the -- at that first meeting, do</p> <p>20 you recall the quality assurance auditors discussing</p> <p>21 what other industries, like McDonald's or the fast-food</p> <p>22 chains, who was adopted the animal welfare guidelines?</p> <p>23 <b>A. I think the fact that McDonald's had sent a</b></p> <p>24 <b>letter to some of the its producers. But that may have</b></p> <p>25 <b>been at a later date, so it would be conjecture on my</b></p>



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<p style="text-align: right;">22</p> <p>1 part to say what we discussed at that time.</p> <p>2 Q. And at that first meeting in the early 2000s,</p> <p>3 when the UEP guidelines were first discussed, do you</p> <p>4 recall any discussion by the group about whether Safeway</p> <p>5 should adopt or consider adopting the guidelines?</p> <p>6 <b>A. We discussed that, but the result from our</b></p> <p>7 <b>discussion would have been that is a corporate decision,</b></p> <p>8 <b>and we are really just fact finders and, you know, that</b></p> <p>9 <b>we would gather information about it.</b></p> <p>10 Q. Okay. Do you recall you personally taking a</p> <p>11 position or speaking up in any way about the guidelines?</p> <p>12 <b>A. No.</b></p> <p>13 Q. Do you recall anyone else specifically who may</p> <p>14 have taken a position or made any comments about the</p> <p>15 guidelines?</p> <p>16 <b>A. No specifics, no.</b></p> <p>17 Q. What about generally?</p> <p>18 MR. MURRAY: Object to the form of the</p> <p>19 question.</p> <p>20 <b>A. Generally, we discussed the pros and cons.</b></p> <p>21 <b>There was real -- no strong opinion either way.</b></p> <p>22 Q. (BY MR. FONTECILLA) Was a vote taken?</p> <p>23 <b>A. No -- no.</b></p> <p>24 Q. Was a report issued or notes taken about what</p> <p>25 the pros and cons were?</p>	<p style="text-align: right;">24</p> <p>1 <b>A. I'm not sure, but I'm assuming it would have</b></p> <p>2 <b>been the CEO of the company, but that's...</b></p> <p>3 Q. (BY MR. FONTECILLA) Do the quality assurance</p> <p>4 auditors at that time in 2000, 2001, when these first</p> <p>5 meetings were taking place at which the guideline were</p> <p>6 discussed, have any roles or responsibilities for making</p> <p>7 recommendations or suggestions about the animal welfare</p> <p>8 practices of Safeway's egg suppliers?</p> <p>9 <b>A. We functioned mostly as fact finders for that.</b></p> <p>10 Q. And what would you do with the facts that you</p> <p>11 found and collected?</p> <p>12 <b>A. Well, we would put them together as, basically,</b></p> <p>13 <b>these are findings. And then if asked, we would present</b></p> <p>14 <b>them to management.</b></p> <p>15 Q. And do you recall ever presenting to</p> <p>16 management, as you described, any findings related to</p> <p>17 the UEP animal welfare guidelines?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. When do you recall the first time that that was</p> <p>20 presented to management?</p> <p>21 <b>A. Possibly 2004. And that is an estimate.</b></p> <p>22 Q. And do you know why, if the quality assurance</p> <p>23 auditors were first discussing this in about 2000, 2001,</p> <p>24 did not first raise it with management until about 2004?</p> <p>25 MR. MURRAY: Object to the form of the</p>
<p style="text-align: right;">23</p> <p>1 <b>A. Not -- nothing so far as minutes. There may</b></p> <p>2 <b>have been some personal notes, but no minutes, no</b></p> <p>3 <b>reports were issued on it at that time.</b></p> <p>4 Q. Now, you mentioned that the group may have come</p> <p>5 to the opinion that it was a corporate decision. Is</p> <p>6 that a fair characterization of how you described it?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. And can you explain what that means?</p> <p>9 <b>A. At that time our quality assurance group -- and</b></p> <p>10 <b>we had several. We -- we were the quality assurance</b></p> <p>11 <b>group for corporate branded items, and we were</b></p> <p>12 <b>responsible for only those items that bore the Safeway</b></p> <p>13 <b>label and brand name. There was a meat and seafood</b></p> <p>14 <b>group, and a produce group. And while we might make</b></p> <p>15 <b>decisions about product safety and quality for corporate</b></p> <p>16 <b>branded items, any major policy had to come from our</b></p> <p>17 <b>corporate hierarchy.</b></p> <p>18 Q. And who would have been the corporate hierarchy</p> <p>19 in 2000 and 2001 that would have made a decision if, for</p> <p>20 example, the auditors, you know, recommended it?</p> <p>21 <b>A. Well --</b></p> <p>22 MR. MURRAY: Objection to the form of the</p> <p>23 question, mischaracterizes prior testimony.</p> <p>24 <b>A. Our --</b></p> <p>25 MR. MURRAY: Calls for speculation.</p>	<p style="text-align: right;">25</p> <p>1 question.</p> <p>2 <b>A. It had not become a big issue, so far as I</b></p> <p>3 <b>know.</b></p> <p>4 Q. (BY MR. FONTECILLA) Do you -- are you aware of</p> <p>5 the -- are you aware of the term "Shameway"?</p> <p>6 <b>A. No.</b></p> <p>7 Q. Or what's commonly referred to as the Shameway</p> <p>8 campaign?</p> <p>9 <b>A. No.</b></p> <p>10 Q. Do you recall any efforts by the animal rights</p> <p>11 groups that you described earlier, putting pressure on</p> <p>12 or requesting Safeway to adopt certain animal welfare</p> <p>13 guidelines for egg laying hens?</p> <p>14 MR. MURRAY: Object to the form of the</p> <p>15 question.</p> <p>16 <b>A. I know that PETA was in contact with Safeway,</b></p> <p>17 <b>but I don't know the terms of the contract.</b></p> <p>18 Q. (BY MR. FONTECILLA) And do you -- earlier we</p> <p>19 talked about how, at one of the first annual meetings</p> <p>20 where you recall the UEP guidelines being discussed</p> <p>21 among the quality assurance auditors, there being a</p> <p>22 discussion or forum about the pros and cons of the</p> <p>23 different aspects of the guidelines. Can you describe</p> <p>24 some of the pros that were discussed in relation to the</p> <p>25 guidelines?</p>



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<p style="text-align: right;">26</p> <p>1       <b>A. The pros in the guidelines would have been more</b>  2       <b>space for the birds, better handling of waste, lower</b>  3       <b>ammonia areas, the lower ammonia levels, less</b>  4       <b>particulate matter in the -- in the air in the -- and,</b>  5       <b>of course, the general, more humane treatment of</b>  6       <b>animals.</b></p> <p>7       Q. And why, if you recall, would the more space  8       for birds have been categorized as a pro?</p> <p>9       MR. MURRAY: Object to the form of the  10       question.</p> <p>11       <b>A. It would allow more space for the birds in --</b>  12       <b>in the cages.</b></p> <p>13       Q. (BY MR. FONTECILLA) Why would quality  14       assurance auditors think of that as a pro?</p> <p>15       MR. MURRAY: Same objection.</p> <p>16       <b>A. Simply probably from a nontechnical, that it</b>  17       <b>just seemed to allow a bird more space. It may not have</b>  18       <b>been a -- it was perhaps not logical that they would</b>  19       <b>have thought that.</b></p> <p>20       Q. (BY MR. FONTECILLA) But fair to say that it  21       would have been considered more humane for the birds to  22       have more space?</p> <p>23       MR. MURRAY: Object to the form of the  24       question.</p> <p>25       <b>A. Yes.</b></p>	<p style="text-align: right;">28</p> <p>1       Q. (BY MR. FONTECILLA) And can you describe any  2       of the cons that you recall being discussed at the  3       meetings in 2000 and 2001 related to the UEP guidelines?</p> <p>4       <b>A. There were also concerns that, if birds were</b>  5       <b>allowed more space, there would be more pecking, that</b>  6       <b>the space might actually be more detrimental.</b></p> <p>7       Q. Were there any other cons discussed with regard  8       to any aspects of the UEP guidelines that you recall?</p> <p>9       <b>A. Well, getting general acceptance among all the</b>  10       <b>producers is always a concern.</b></p> <p>11       Q. And why would that be a concern?</p> <p>12       <b>A. That if you didn't get acceptance, then no one</b>  13       <b>would use the -- the rules would not be put into force</b>  14       <b>if there wasn't acceptance of enough of the producers.</b></p> <p>15       Q. And so Safeway had an interest -- would it be  16       fair to characterize Safeway at the time as having an  17       interest in a set of animal welfare practices that would  18       be widely accepted by the egg supplying industry?</p> <p>19       MR. MURRAY: Object to the form of the  20       question.</p> <p>21       He's not here testifying on behalf of  22       Safeway.</p> <p>23       <b>A. Again, I can't tell what upper management would</b>  24       <b>have wanted.</b></p> <p>25       Q. (BY MR. FONTECILLA) Sure. And I appreciate</p>
<p style="text-align: right;">27</p> <p>1       Q. (BY MR. FONTECILLA) And would it be fair to  2       say that the quality assurance auditors were interested  3       in evaluating practices that were more humane, such as  4       giving the birds more space?</p> <p>5       <b>A. Probably not more than any other person who saw</b>  6       <b>birds in cages like that.</b></p> <p>7       Q. Okay. But quality assurance auditors, would  8       you agree, are particularly well suited to really  9       understand the situation of the birds because they  10       regularly visit facilities where the birds are kept,  11       right?</p> <p>12       MR. MURRAY: Objection, mischaracterizes  13       prior testimony.</p> <p>14       But you can answer if you know.</p> <p>15       And it also calls for speculation beyond  16       his -- his own personal experience.</p> <p>17       <b>A. I don't think that they would have any more</b>  18       <b>disposition toward humanity than anyone else.</b></p> <p>19       Q. (BY MR. FONTECILLA) But would it be fair to  20       say that the quality assurance auditors would have more  21       insight into how the birds were actually kept?</p> <p>22       MR. MURRAY: Objection to the form of the  23       question.</p> <p>24       <b>A. They would be more aware of how the birds were</b>  25       <b>kept.</b></p>	<p style="text-align: right;">29</p> <p>1       that. And I'm only asking right now when you were a  2       quality assurance auditor. In your position as a  3       quality assurance auditor for Safeway between 1996 and  4       2001, focusing on that time period, would it be fair to  5       characterize you, or your roles and responsibility as a  6       quality assurance auditor, as involving the discussion  7       of the cons related to the UEP guidelines or any other  8       animal welfare practices?</p> <p>9       MR. MURRAY: Object to the form of the  10       question, vague and ambiguous.</p> <p>11       <b>A. Could you rephrase that so --</b></p> <p>12       Q. (BY MR. FONTECILLA) Sure. It was a confusing  13       question.</p> <p>14       <b>A. Yeah.</b></p> <p>15       Q. As a quality assurance auditor, you mentioned  16       you attended these annual meetings, right?</p> <p>17       <b>A. Right.</b></p> <p>18       Q. And at one of the earlier meetings where the  19       UEP guidelines were first discussed, pros and cons were  20       discussed?</p> <p>21       <b>A. Yes.</b></p> <p>22       Q. And I'm trying to understand what the cons you  23       recall being discussed were.</p> <p>24       <b>A. Uh-huh.</b></p> <p>25       Q. And you testified that there was a concern</p>

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<p style="text-align: right;">30</p> <p>1 about animal welfare practiced or standards that might 2 not be accepted by all of the producers, right?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. Can you elaborate on that, please?</p> <p>5 <b>A. If industry practices or if industry programs,</b> 6 <b>either quality, safety, or animal rights, are set to the</b> 7 <b>point at which producers think they're too stringent,</b> 8 <b>then you don't get good participation -- or you don't</b> 9 <b>get good participation with them.</b></p> <p>10 Q. Would it be fair to characterize a good animal 11 welfare program as one that has a wider participation by 12 the producers?</p> <p>13 MR. MURRAY: Object to the form of the 14 question.</p> <p>15 <b>A. I don't think the width of the participation,</b> 16 <b>because you could put something very simple in, and a</b> 17 <b>large number would participate. A good program has to</b> 18 <b>address issues and get participation.</b></p> <p>19 Q. (BY MR. FONTECILLA) And if a program had a 20 wider participation and addressed the issues, would it 21 be fair to characterize it as a program that, as a 22 quality assurance auditor, you might be in favor of?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. And do you recall any other cons being 25 discussed at those earlier meetings other than the level</p>	<p style="text-align: right;">32</p> <p>1 <b>A. I am -- I really can't remember any specific</b> 2 <b>issues about costs.</b></p> <p>3 Q. (BY MR. FONTECILLA) Okay. Do you recall any 4 meeting of quality assurance auditors involving a 5 discussion or reference to the levels of supply and how 6 they might be affected by different cage space 7 requirements?</p> <p>8 <b>A. No.</b></p> <p>9 Q. Do you recall any discussions at the annual 10 meetings of quality assurance auditors of any effects 11 that adoption of the UEP guidelines might have?</p> <p>12 <b>A. There were some discussions that reducing it</b> 13 <b>might improve the quality of eggs, fewer checks, less</b> 14 <b>crowding, so you would have less damage to eggs as the</b> 15 <b>bird laid them. So we thought there would be possibly a</b> 16 <b>quality improvement.</b></p> <p>17 Q. And do you recall whether there were any 18 comments made at any of the annual meetings by any of 19 the quality assurance auditors about whether a 20 suggestion or recommendation should be made by Safeway 21 to incorporate the UEP guidelines in any way into its 22 business?</p> <p>23 <b>A. No, not to incorporate them.</b></p> <p>24 Q. Were any other discussions had about using the 25 UEP guidelines?</p>
<p style="text-align: right;">31</p> <p>1 of participation by the producers?</p> <p>2 <b>A. I think --</b></p> <p>3 MR. MURRAY: Objection, mischaracterizes 4 his testimony because he testified about others.</p> <p>5 <b>A. Yeah. I think I did mention that there were</b> 6 <b>some concerns that reducing crowding might actually</b> 7 <b>allow more -- "cannibalism" is the term I think that's</b> 8 <b>used.</b></p> <p>9 Q. (BY MR. FONTECILLA) And in addition to those, 10 do you recall any other cons being discussed?</p> <p>11 <b>A. No.</b></p> <p>12 Q. Do you recall the quality assurance auditors at 13 any of the annual meetings ever discussing the cost 14 implications of adopting any animal welfare programs 15 related to egg laying hens?</p> <p>16 <b>A. We didn't generally discuss cost. We tried to</b> 17 <b>avoid and stick strictly with food safety, food quality,</b> 18 <b>and pertaining issues.</b></p> <p>19 Q. And I appreciate that. But kind of digging 20 back in your recollection, do you recall at any of those 21 meetings any of the quality assurance auditors 22 discussing anything about the costs of suppliers 23 implementing animal welfare programs relating to egg 24 laying hens?</p> <p>25 MR. MURRAY: Objection, asked and answered.</p>	<p style="text-align: right;">33</p> <p>1 <b>A. The questions were made as to whether we --</b> 2 <b>what -- what I was doing with them, whether I was</b> 3 <b>proposing them to upper management, or sending out</b> 4 <b>letters of -- informational letters as to what was going</b> 5 <b>on.</b></p> <p>6 Q. And do you recall ever sending out any such 7 letters regarding the UEP guidelines?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. When was the first time you sent out such a 10 letter?</p> <p>11 <b>A. I can't be specific. I think probably 2003,</b> 12 <b>2004.</b></p> <p>13 Q. So this would have been after you were a 14 quality assurance auditor?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. But focusing on the -- and we'll move on to 17 when you were a quality --</p> <p>18 <b>A. Oh, just when I was --</b></p> <p>19 <b>Q. -- assurance manager.</b></p> <p>20 <b>A. -- an auditor.</b></p> <p>21 Q. But when you were an auditor, do you recall any 22 other discussions about the UEP guidelines, other than 23 the discussions about the pros and cons at that first 24 annual meeting and we discussed?</p> <p>25 <b>A. No.</b></p>

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<p style="text-align: right;">34</p> <p>1 Q. Do you recall ever discussing with any egg 2 producer the UEP guidelines?</p> <p>3 <b>A. During some of the audits, I don't remember 4 specifics, but I know I did ask, you know, if -- how it 5 was progressing.</b></p> <p>6 Q. And why would you have asked in an audit about 7 how the UEP guidelines were progressing?</p> <p>8 <b>A. Just conversational.</b></p> <p>9 Q. And would you have been asking how generally 10 the UEP guidelines were progressing, or about how a 11 particular producer may have been progressing in terms 12 of adopting the UEP guidelines?</p> <p>13 <b>A. Mostly just how the overall industry was 14 looking at it.</b></p> <p>15 Q. And what do you recall about the feedback, if 16 any, that you got from the egg producers related to the 17 UEP guidelines?</p> <p>18 <b>A. The people at the plants were vaguely aware of 19 it. They didn't have much working knowledge of it, the 20 people I was dealing with at the cartoning units, no.</b></p> <p>21 Q. Fair enough. And just so we can close out your 22 time as a quality assurance auditor, do you recall ever, 23 other than what we've talked about, receiving any 24 information from egg producers, or other quality 25 assurance auditors, or anyone else at Safeway, regarding</p>	<p style="text-align: right;">36</p> <p>1 his name in the guidelines?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. And why did you reach out to him?</p> <p>4 <b>A. Just for informational purposes.</b></p> <p>5 Q. And what information were you hoping to get?</p> <p>6 <b>A. Just to find out what UEP guidelines were, 7 the -- what were they proposing.</b></p> <p>8 Q. And how does -- how does that relate to your 9 functions as a quality assurance auditor at that time?</p> <p>10 <b>A. Just continuing education.</b></p> <p>11 Q. And what do you recall asking him about, 12 specifically or generally?</p> <p>13 <b>A. I just --</b></p> <p>14 MR. MURRAY: Object to the form of the 15 question.</p> <p>16 <b>A. I just asked for a brief rough draft of what 17 information they had on it.</b></p> <p>18 Q. (BY MR. FONTECILLA) And did -- and you 19 testified that he sent you a copy of one of the versions 20 of the husbandry guidelines at the time?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. And do you recall reading it?</p> <p>23 <b>A. No, I don't. Sorry.</b></p> <p>24 Q. But would it be fair to say that you read it?</p> <p>25 MR. MURRAY: Objection to the form of the</p>
<p style="text-align: right;">35</p> <p>1 the UEP guidelines?</p> <p>2 <b>A. No. I don't recall anything specific.</b></p> <p>3 Q. All right. Do you recall anything generally?</p> <p>4 <b>A. I'm not sure as to the timeline. I remember 5 receiving some -- a rough proposal of it that was, I 6 guess, an industry publication.</b></p> <p>7 Q. Are you referring to like a rough proposal or 8 draft of the actual --</p> <p>9 <b>A. A rough -- yes.</b></p> <p>10 Q. -- animal husbandry guidelines?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. Who had -- do you recall who you received that 13 from?</p> <p>14 <b>A. I believe it was from Gene Gregory.</b></p> <p>15 Q. And was this as -- your time as a quality 16 assurance auditor, or was this after you had --</p> <p>17 <b>A. I can't remember as to the specific time.</b></p> <p>18 Q. And who is Gene Gregory?</p> <p>19 <b>A. He was at the UEP. I'm not sure exactly what 20 his title was.</b></p> <p>21 Q. And how did you know Gene Gregory as a quality 22 assurance auditor?</p> <p>23 <b>A. His name mentioned in one of the news -- one of 24 the magazine articles.</b></p> <p>25 Q. So did you reach out to him after reading about</p>	<p style="text-align: right;">37</p> <p>1 question, asked and answered.</p> <p>2 <b>A. I would think I eventually read it.</b></p> <p>3 Q. (BY MR. FONTECILLA) And do you recall whether 4 you had any impressions or comments about it?</p> <p>5 <b>A. No.</b></p> <p>6 Q. Okay. Do you recall whether you did anything 7 after you got the information from Mr. Gregory about the 8 husbandry guidelines?</p> <p>9 <b>A. No.</b></p> <p>10 Q. And other than the discussion at the annual 11 meeting about the pros and cons of the guidelines, and 12 other than your discussion with Mr. Gregory, while you 13 were a quality assurance auditor between 1996 and 2001, 14 do you recall any other discussions or communications 15 related to the UEP guidelines?</p> <p>16 <b>A. No, I don't.</b></p> <p>17 Q. And then in 2001 would it be fair to say you 18 were promoted to quality assurance manager?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. And how did your roles and responsibilities 21 change from quality assurance auditor to quality 22 assurance manager?</p> <p>23 <b>A. The quality assurance auditors reported to me.</b></p> <p>24 Q. And who was the quality assurance manager while 25 you were an auditor?</p>

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11 (Pages 38 to 41)

<p style="text-align: right;">38</p> <p>1 <b>A. Rich Calhoun. His title was actually quality</b>  2 <b>assurance director.</b>  3 Q. And so there was no quality assurance manager  4 while you were an auditor?  5 <b>A. Correct.</b>  6 Q. Is it fair to say that this was a position that  7 was created for you?  8 <b>A. The director retired and I filled -- I took</b>  9 <b>those responsibilities, but was given the title of</b>  10 <b>manager.</b>  11 Q. And do you recall -- going back to when you  12 were an auditor, do you recall ever discussing with  13 Mr. Calhoun or hearing -- hearing from Mr. Calhoun  14 anything related to the UEP guidelines?  15 <b>A. Mr. Calhoun would have been present at our</b>  16 <b>meetings and would have been part of the -- he would</b>  17 <b>have listened to us discussing the UEP guidelines.</b>  18 Q. Do you recall, at any of those meetings when  19 you were an auditor, Mr. Calhoun making any of the --  20 any statements related to the UEP guidelines?  21 <b>A. No.</b>  22 Q. And you were a quality assurance manager from  23 2001 to 2005; is that right?  24 <b>A. Yes.</b>  25 Q. What would have been your roles and</p>	<p style="text-align: right;">40</p> <p>1 implement the UEP guidelines as part of its  2 specifications for egg suppliers?  3 MR. MURRAY: Object to the form of the  4 question.  5 <b>A. Yes.</b>  6 Q. (BY MR. FONTECILLA) When was the first  7 discussion that you recall about that?  8 <b>A. I honestly don't remember.</b>  9 Q. Do you -- what do you recall about the  10 discussion, the first one?  11 <b>A. The discussion was -- the first we had was what</b>  12 <b>would we want to be adopted and how would it be</b>  13 <b>administered.</b>  14 Q. And were the UEP guidelines the only animal  15 husbandry practices for egg laying hens that were  16 discussed?  17 <b>A. No.</b>  18 Q. Fair to say others were also considered?  19 <b>A. Yes.</b>  20 Q. Do you recall what other animal husbandry  21 practices were considered?  22 <b>A. There was a program from, I believe, a</b>  23 <b>professor at Penn State that had his program, and there</b>  24 <b>was a veterinary -- I'm very vague on this, but there</b>  25 <b>were some veterinary operations that were proposing</b></p>
<p style="text-align: right;">39</p> <p>1 responsibilities related to the animal welfare practices  2 as they relate to egg laying hens?  3 <b>A. We continued to monitor the various programs</b>  4 <b>that were available or being proposed for animal</b>  5 <b>rights -- or animal husbandry of -- of the poultry, and</b>  6 <b>issued white papers to management on that.</b>  7 Q. Do you recall when the first white paper would  8 have been issued?  9 <b>A. No, I don't.</b>  10 Q. Okay. Was it when you first promoted, or  11 towards the end but before you became director?  12 <b>A. It would have, I think, towards the end.</b>  13 Q. And when you first started as quality assurance  14 manager, did any of your functions relate to the  15 UEP guidelines or evaluating potential animal husbandry  16 programs for Safeway?  17 <b>A. Not specific. Anything we would have done</b>  18 <b>would have been simply informational gathering,</b>  19 <b>awareness.</b>  20 Q. And do you know what was done with the  21 information that you and the auditors and your team  22 would have gathered?  23 <b>A. No.</b>  24 Q. And did you or your team or the auditors that  25 you worked with ever discuss how Safeway could adopt or</p>	<p style="text-align: right;">41</p> <p>1 <b>some, and were offering some inspection services.</b>  2 Q. And do you recall there being any differences  3 related to the cage space requirements across those  4 different programs that Safeway evaluated?  5 <b>A. I don't remember any specifics, no.</b>  6 Q. Do you remember any specific discussions in  7 connection with this evaluation of a potential program  8 for Safeway to use, that related to the cage space  9 allocations for the hens?  10 <b>A. No.</b>  11 Q. What were the primary factors or considerations  12 involved in assessing the different potential programs  13 for Safeway?  14 MR. MURRAY: Object to the form of the  15 question.  16 <b>A. Principally, it was general acceptance of the</b>  17 <b>industry.</b>  18 Q. (BY MR. FONTECILLA) And why was that the  19 principal consideration for Safeway at the time?  20 MR. MURRAY: Objection.  21 He's not here to talk about Safeway. He's  22 talking -- you can ask him questions about himself.  23 <b>A. I don't know what Safeway. I can speak to me.</b>  24 Q. (BY MR. FONTECILLA) And I understand you're  25 not testifying on behalf of the company. When I say</p>

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<p style="text-align: right;">42</p> <p>1 "Safeway," I mean when you were there at the time in  2 terms of what directives or what your understanding was  3 of what the company's pursuits were.</p> <p>4 MR. MURRAY: Same objection.</p> <p>5 <b>A. Again, I'm not aware of what the overall, the</b>  6 <b>corporate policy was. We -- we were evaluating from a</b>  7 <b>technical standpoint, so...</b></p> <p>8 Q. (BY MR. FONTECILLA) Sure. So I had asked you  9 whether there any primary factors or considerations in  10 the assessment of the potential programs, and you  11 mentioned that principally it was general acceptance of  12 the industry. How or who came up with that particular  13 consideration being the principal?</p> <p>14 <b>A. Well, it would have been mine and consulting</b>  15 <b>with the group. We were looking for -- there was</b>  16 <b>additional space per hen. There were reduction in</b>  17 <b>ammonia levels. There were changes to molting and beak</b>  18 <b>practices. And we were looking that the program appear</b>  19 <b>to be acceptable to most of the egg producers. And</b>  20 <b>there were some articles that PETA was open to some. So</b>  21 <b>we felt there was a -- there was some real movement,</b>  22 <b>plus some acceptance by the public.</b></p> <p>23 Q. And would PETA's recommendations or preferences  24 have played a role in your evaluation?</p> <p>25 <b>A. From the standpoint that they have some</b></p>	<p style="text-align: right;">44</p> <p>1 It happens invariably, but the court  2 reporter will appreciate it.</p> <p>3 THE WITNESS: I'm sorry.</p> <p>4 Q. (BY MR. FONTECILLA) When you and your time  5 were first evaluating the different animal husbandry  6 programs, what do you recall about the discussions or  7 considerations relating to the additional space per hen?</p> <p>8 <b>A. I don't recall anything.</b></p> <p>9 Q. Do you recall whether you and your team were  10 generally in favor of or seeking a program that allowed  11 for additional space for hens?</p> <p>12 MR. MURRAY: Object to the form of the  13 question.</p> <p>14 <b>A. No. We -- we were not looking for a program --</b>  15 <b>we were not trying to set specifics for the program. We</b>  16 <b>were just looking at the programs themselves.</b></p> <p>17 Q. (BY MR. FONTECILLA) And you were looking at  18 the programs to understand various aspects from a  19 technical standpoint, right?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. And you also wanted to understand which one  22 would have more acceptability among the producers; is  23 that fair?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. And in your evaluation, did you determine which</p>
<p style="text-align: right;">43</p> <p>1 <b>technical expertise and -- that would have had some</b>  2 <b>bearing on our...</b></p> <p>3 Q. Would the level of public acceptance of a  4 particular set of guidelines or a particular program  5 have had some bearing on the evaluation as well?</p> <p>6 MR. MURRAY: Object to the form of the  7 question, calls for speculation.</p> <p>8 <b>A. Since we were trying to look at it technically,</b>  9 <b>that would not have played into our recommendation to</b>  10 <b>upper management.</b></p> <p>11 Q. (BY MR. FONTECILLA) Do you recall different  12 space allocations being considered or evaluated when you  13 were first looking at these different programs?</p> <p>14 <b>A. Yes, but I don't remember any specifics.</b></p> <p>15 Q. If I mentioned the numbers of 54 inches,  16 67 inches, and 72 inches, would -- does that refresh  17 your recollection about what, if any, discussions were  18 had about --</p> <p>19 <b>A. I'm sorry, no.</b></p> <p>20 Q. -- specific space -- cage space allocations?</p> <p>21 MR. MURRAY: You've got -- you've got to  22 let him finish his --</p> <p>23 THE WITNESS: Oh, sorry.</p> <p>24 MR. MURRAY: -- question. Slow down a  25 little.</p>	<p style="text-align: right;">45</p> <p>1 programs or potential programs had more acceptability  2 among the producers?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. And which one was that?</p> <p>5 <b>A. The UEP.</b></p> <p>6 Q. And how did you come to that determination?</p> <p>7 <b>A. Because it was the one that UEP formalized and</b>  8 <b>announced and said that they were backing.</b></p> <p>9 Q. How did that compare to the level of  10 acceptability among producers or suppliers of other  11 programs?</p> <p>12 <b>A. I don't know.</b></p> <p>13 Q. Would it be fair to say that UEP was by far,  14 you know, the most accepted program at the time?</p> <p>15 MR. MURRAY: Objection to the form of the  16 question, calls for speculation.</p> <p>17 <b>A. I -- I don't know.</b></p> <p>18 Q. (BY MR. FONTECILLA) What else do you recall  19 about what was considered when the different programs  20 were first evaluated?</p> <p>21 <b>A. I think there was some discussion of the</b>  22 <b>supporting structure, who would be doing the audits,</b>  23 <b>would there be enough -- would it be a viable program.</b></p> <p>24 Q. What do you mean by would it be a viable  25 program?</p>



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<p style="text-align: right;">46</p> <p>1       <b>A. One of the programs I mentioned was being</b>  2       <b>conducted by one veterinarian, and the expectation that</b>  3       <b>one veterinarian could take care of all the poultry</b>  4       <b>operations in the United States, or at least that</b>  5       <b>supplied Safeway, was not realistic.</b>  6       Q. Was it -- did you and your team consider at all  7       whether other grocery store chains or fast-food chains  8       had adopted a particular program?  9       <b>A. We did discuss the McDonald's letter that was</b>  10       <b>sent.</b>  11       Q. And what was discussed about the McDonald's  12       program?  13       <b>A. That they -- they were bringing pressure, and</b>  14       <b>it was a wedge, and that we needed to be prepared to</b>  15       <b>understand what they were asking and what type of</b>  16       <b>program it was.</b>  17       Q. Okay. Well, when you mentioned pressure, do  18       you mean pressure that others who purchased eggs were  19       getting by having to adopt or consider animal husbandry  20       programs?  21       <b>A. Yes, that there could potentially be pressure</b>  22       <b>by them.</b>  23       Q. Okay. And that that -- and would it be fair to  24       say that that pressure would have risen if other grocery  25       stores or other fast-food chains adopted similar</p>	<p style="text-align: right;">48</p> <p>1       programs, what was appealing, if anything, to you and  2       your team about the UEP guidelines?  3       <b>A. That it appeared to be supported by the egg</b>  4       <b>industry, would which lead to wide scale acceptance, and</b>  5       <b>it did address some of the concerns that the animal</b>  6       <b>rights groups had brought up, such as molting,</b>  7       <b>debeaking, cage levels.</b>  8       Q. And were you and your team looking for a  9       program that met certain technical specifications  10       related to the cage space?  11       <b>A. We were looking for programs that addressed the</b>  12       <b>concerns of the animal rights, and cage space was one of</b>  13       <b>those, so yes.</b>  14       Q. And the concern that the animal rights groups  15       had at that time was that there wasn't enough cage  16       space, or that they wanted more cage space to be  17       provided per hen, right?  18       <b>A. Yes.</b>  19       Q. And so in your evaluation you were looking for  20       programs that allowed for more cage space per hen than  21       what was in place at the time?  22       <b>A. Yes.</b>  23       Q. And the UEP guidelines provided for more space  24       per hen than what was being provided at the time?  25       <b>A. Yes.</b></p>
<p style="text-align: right;">47</p> <p>1       programs?  2       MR. MURRAY: Object to the form of the  3       question, calls for speculation.  4       <b>A. Yeah. And I -- it would be just a guess on my</b>  5       <b>part of that.</b>  6       Q. (BY MR. FONTECILLA) You read the McDonald's  7       letter that you referenced?  8       <b>A. Yes.</b>  9       Q. It contained certain specifications that  10       McDonald's had adopted at the time for its egg  11       suppliers, right?  12       <b>A. I honestly don't -- I remember having a copy of</b>  13       <b>the letter, but I don't remember specifically anything</b>  14       <b>it said, other than they were implementing a program and</b>  15       <b>their suppliers would have to meet that.</b>  16       Q. Do you remember whether the McDonald's letter  17       had a cage space allocation included in it?  18       <b>A. I honestly don't remember any of the specifics</b>  19       <b>in it. I'm sorry.</b>  20       Q. Do you remember generally whether there were  21       cage space allocations in the McDonald's specifications  22       at that time?  23       <b>A. No, I don't.</b>  24       Q. When you and your team were evaluating as --  25       when you were quality assurance manager, the different</p>	<p style="text-align: right;">49</p> <p>1       Q. And that was something that you and your team  2       would characterize as a pro, to use your word, for the  3       UEP guidelines in that evaluation, right?  4       <b>A. Yes.</b>  5       Q. At any time in the evaluation, did you, your  6       team, or anyone else at Safeway, discuss or consider, to  7       best of your knowledge, what the cost implications would  8       be for the egg suppliers to adopt additional space per  9       hen?  10       MR. MURRAY: Objection, asked and answered.  11       <b>A. No. We generally didn't discuss cost of</b>  12       <b>products or actions.</b>  13       Q. (BY MR. FONTECILLA) Sure. Maybe -- let me be  14       more clear with my question. And I appreciate that you  15       generally didn't discuss the cost of products. Did you  16       at all discuss or consider, when you were a quality  17       assurance manager doing this evaluation, what the cost  18       would be to the suppliers of giving each hen more space?  19       MR. MURRAY: Same objection, asked and  20       answered.  21       <b>A. I -- I don't recall ever discussing the cost to</b>  22       <b>the suppliers on that.</b>  23       Q. (BY MR. FONTECILLA) Okay. Do you recall any  24       discussions, during this evaluation while you were  25       quality assurance manager, about how the UEP guidelines</p>

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<p style="text-align: right;">50</p> <p>1 or the cage space per hen would affect the supply level 2 of eggs?</p> <p>3 <b>A. I don't recall a specific instance of that.</b></p> <p>4 Q. Okay. Do you recall anyone ever saying, if we 5 have less hens per cage, then there's going to be less 6 eggs per each cage?</p> <p>7 <b>A. Not specifically, no.</b></p> <p>8 Q. What about generally?</p> <p>9 <b>A. There were general discussions that reducing 10 the number of hens might actually increase production of 11 eggs because the quality -- there would be fewer damaged 12 eggs and more useful eggs. So there were discussions 13 both ways.</b></p> <p>14 Q. And what else do you recall about those 15 discussions?</p> <p>16 <b>A. Those were just the general discussions that...</b></p> <p>17 Q. So would it be fair to say that -- and another 18 pro of the UEP guidelines was that it was considered to 19 potentially increase the supply of eggs?</p> <p>20 <b>A. Yes. I think I mentioned that earlier, the 21 quality -- at least the quality and produce fewer 22 checks.</b></p> <p>23 MR. MURRAY: If you're switching gears, why 24 don't we take a break?</p> <p>25 MR. FONTECILLA: That's fine.</p>	<p style="text-align: right;">52</p> <p>1 quality assurance manager, about potentially adopting 2 the UEP guidelines?</p> <p>3 <b>A. No.</b></p> <p>4 Q. Do you yourself, as the quality assurance 5 manager and principal fact finder, have any concerns 6 about Safeway adopting UEP guidelines?</p> <p>7 MR. MURRAY: Object to the form of the 8 question, mischaracterizes testimony.</p> <p>9 <b>A. Nothing that I recall, no.</b></p> <p>10 Q. (BY MR. FONTECILLA) And after this initial 11 assessment of the different programs was done, what was 12 the next time that you recall, as a quality assurance 13 manager, coming across the UEP animal husbandry 14 guidelines in your functions?</p> <p>15 <b>A. I don't actually recall.</b></p> <p>16 Q. Do you recall any other time, as quality 17 assurance manager between 2001 that 2005, discussing 18 with anyone the UEP animal husbandry guidelines?</p> <p>19 <b>A. Not specifically, no. There -- there were so 20 many other items we had responsibility for, and this was 21 working its way out, it appeared, through UEP, so I 22 don't recall specifics.</b></p> <p>23 Q. Was there anyone else, to the best of your 24 knowledge, at Safeway between 2001 and 2005, evaluating 25 or otherwise working with the UEP guidelines?</p>
<p style="text-align: right;">51</p> <p>1 (Recess 11:09 a.m. to 11:18 a.m.)</p> <p>2 Q. (BY MR. FONTECILLA) Mr. Lawrence, when we took 3 a break, we were talking about your time as a quality 4 assurance manager for corporate branded items, which you 5 were in between 2001 and 2005. Do you remember that?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. And we were talking specifically about one of 8 the initial, earlier evaluations that you and others at 9 Safeway did of potential animal husbandry programs for 10 egg suppliers. Do you recall that?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. And we talked about various technical 13 specifications that were considered. Do you recall 14 that?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. And that one of those was the cage space 17 requirements of the programs, including the UEP animal 18 husbandry guidelines. Do you recall that?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. What was the result of the evaluation that you 21 and your team did at that time?</p> <p>22 <b>A. I don't really remember anything actively done, 23 that it was simply we reviewed the various items and 24 probably filed it for future reference.</b></p> <p>25 Q. Were any concerns raised with you, as the</p>	<p style="text-align: right;">53</p> <p>1 <b>A. I don't know if they were working with them. I 2 know Brian Dowling was aware of them.</b></p> <p>3 Q. And who is Brian Dowling?</p> <p>4 <b>A. He was -- I don't know the specific title, but 5 I think he was vice president of public relations.</b></p> <p>6 Q. And at that time what is the basis for your 7 knowledge that Brian Dowling at the time had some 8 interaction related to the UEP guidelines?</p> <p>9 <b>A. We had had one or two phone calls with regard 10 to eggs and, you know, how -- how we were handling our 11 suppliers.</b></p> <p>12 Q. And how did the UEP guidelines come up in those 13 phone calls?</p> <p>14 <b>A. He mentioned the PETA action, and I may have 15 mentioned the McDonald's letters.</b></p> <p>16 Q. And did he mention that PETA was suggesting or 17 requesting that Safeway incorporate the UEP guidelines 18 into its specifications for egg suppliers?</p> <p>19 <b>A. I don't think he specifically said that, no.</b></p> <p>20 Q. All right. Do you recall him saying anything 21 generally to that effect?</p> <p>22 MR. MURRAY: Object to the form of the 23 question.</p> <p>24 <b>A. No. I don't remember anything specific like 25 that.</b></p>



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<p style="text-align: right;">54</p> <p>1 Q. (BY MR. FONTECILLA) Do you recall you two 2 discussing in any way the possibility that Safeway might 3 use the UEP guidelines?</p> <p>4 <b>A. I don't believe that came up, no.</b></p> <p>5 Q. And in what way did the UEP guidelines come up 6 in your conversations with Mr. Dowling then?</p> <p>7 <b>A. When he mentioned PETA and, I guess, McDonald's</b> 8 <b>had announced they were requesting the -- that their</b> 9 <b>manufacturers come up with, and that's how UEP would</b> 10 <b>have been brought into it.</b></p> <p>11 Q. Okay. And just to be clear, the context in 12 with the UEP guidelines were brought up was in a 13 discussion about McDonald's requiring its egg suppliers 14 to comply with the UEP guidelines?</p> <p>15 <b>A. That's to my recollection, yes.</b></p> <p>16 Q. And did that information have any effect, or 17 was it used in any way by you and your team in the 18 evaluation of potential animal husbandry programs that 19 Safeway could use?</p> <p>20 <b>A. Not such in evaluation as the fact that there</b> 21 <b>was a widespread industry acceptance. And let me</b> 22 <b>recharacterize that. At least one company in the</b> 23 <b>industry who had a large footprint was using it.</b></p> <p>24 Q. And why would that information have been 25 important to you and your team?</p>	<p style="text-align: right;">56</p> <p>1 assurance director in about 2005, while you were still 2 quality assurance manager, do you recall any other 3 discussions regarding the UEP guidelines other than the 4 ones we've talked about such as the white paper and the 5 evaluation of the different potential programs?</p> <p>6 <b>A. No.</b></p> <p>7 Q. And what was the white paper that you -- was 8 that a white paper that you wrote?</p> <p>9 <b>A. I described it was white paper. It was -- it</b> 10 <b>was more a basic e-mail in which we were looking at a</b> 11 <b>number of different animal husbandry issues with dairy</b> 12 <b>cattle, perhaps some overseas social responsibility</b> 13 <b>issues for people in manufacturing plants, so a broad...</b></p> <p>14 Q. Do you recall whether this was during your time 15 as a QA manager?</p> <p>16 <b>A. I -- it would -- I'm not sure as to the exact</b> 17 <b>time.</b></p> <p>18 Q. And when you say you would have discussed the 19 overseas social responsibility issues, do you mean that 20 Safeway would have collected information or facts about 21 what egg suppliers were doing in other countries?</p> <p>22 <b>A. Oh, no. This -- this would have been to</b> 23 <b>products we were receiving from overseas, social</b> 24 <b>responsibility such as tuna packers and so forth, not</b> 25 <b>eggs.</b></p>
<p style="text-align: right;">55</p> <p>1 <b>A. It would have been second-guessing on our part,</b> 2 <b>but McDonald's technical group were looking at it, and</b> 3 <b>the fact that they were doing it would push industry to</b> 4 <b>accept them.</b></p> <p>5 Q. And so it would have lended some credibility or 6 weight to the -- to the scientific support or producer 7 community support of the UEP guidelines?</p> <p>8 MR. MURRAY: Object to the form of the 9 question.</p> <p>10 <b>A. I -- I would have thought that, yes.</b></p> <p>11 Q. (BY MR. FONTECILLA) And do you recall ever 12 discussing with anyone at McDonald's why they had come 13 up with their specifications or how they had evaluated 14 the UEP guidelines?</p> <p>15 <b>A. No.</b></p> <p>16 Q. Do you recall reading anything about McDonald's 17 specifications, other than the letter that you 18 referenced?</p> <p>19 <b>A. Some articles in trade magazines that were</b> 20 <b>general.</b></p> <p>21 Q. What did they generally say about the 22 UEP guidelines as they related to McDonald's 23 specifications?</p> <p>24 <b>A. I don't recall.</b></p> <p>25 Q. And before you were promoted to quality</p>	<p style="text-align: right;">57</p> <p>1 Q. Okay. What aspect of the white paper or 2 e-mail --</p> <p>3 <b>A. Uh-huh.</b></p> <p>4 Q. -- had to do with the animal husbandry 5 practices that Safeway was considering?</p> <p>6 <b>A. It would have been the UEP -- a brief</b> 7 <b>discussion of what it required.</b></p> <p>8 Q. And at any time as a QA auditor or QA manager, 9 do you recall any egg supplier being asked to comply 10 with the UEP guidelines in order to supply eggs to 11 Safeway?</p> <p>12 <b>A. After -- we did implement the UEP program as a</b> 13 <b>requirement.</b></p> <p>14 Q. And when do you recall Safeway implementing 15 that program?</p> <p>16 <b>A. Somewhere around 2004 or '5, I think, is when</b> 17 <b>our quality assurance group added that to our product</b> 18 <b>specification. I can't be more specific as to date.</b> 19 <b>I'm sorry.</b></p> <p>20 Q. And you were the quality assurance manager at 21 the time; is that right?</p> <p>22 <b>A. Either manager or director. It was the -- just</b> 23 <b>a title change, no -- no change in...</b></p> <p>24 Q. But would it -- would it have been you that 25 made the decision or approved the inclusion or addition</p>

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<p style="text-align: right;">58</p> <p>1 of that requirement into the specifications?</p> <p>2 <b>A. I would have been responsible for putting it in</b></p> <p>3 <b>the specification, but it would have been a</b></p> <p>4 <b>corporate-down policy.</b></p> <p>5 Q. And do you recall the decision being made?</p> <p>6 <b>A. No.</b></p> <p>7 Q. Do you recall whether you made a recommendation</p> <p>8 that it be included in the specifications?</p> <p>9 <b>A. I would have made a recommendation as to the</b></p> <p>10 <b>wording in which it was...</b></p> <p>11 Q. Okay. But do you recall anyone at corporate</p> <p>12 instructing you or giving you a directive to incorporate</p> <p>13 the UEP guidelines?</p> <p>14 <b>A. It -- it would have been an approval, I guess,</b></p> <p>15 <b>from -- and it would have been approved from Brian down.</b></p> <p>16 Q. And do you remember receiving that approval</p> <p>17 from Brian Dowling?</p> <p>18 <b>A. No, I don't remember it. I'm sorry.</b></p> <p>19 Q. And do you recall drafting the wording for the</p> <p>20 specifications related to UEP guidelines?</p> <p>21 <b>A. I remember the discussion about what the</b></p> <p>22 <b>wording would be because we were being very specific</b></p> <p>23 <b>about what we were requiring.</b></p> <p>24 Q. And can you explain a little bit about what you</p> <p>25 mean, that you were trying to be specific?</p>	<p style="text-align: right;">60</p> <p>1 <b>A. We did not require them to be certified by UEP.</b></p> <p>2 Q. What is the difference between when you -- you</p> <p>3 know, when you were drafting the language, what did you</p> <p>4 consider the difference to be between requiring egg</p> <p>5 suppliers to comply with the guidelines and requiring</p> <p>6 egg suppliers to be certified by UEP?</p> <p>7 <b>A. The -- our understanding -- or my understanding</b></p> <p>8 <b>was that if a producer was not a member of UEP, but</b></p> <p>9 <b>implemented all of the requirements into their facility</b></p> <p>10 <b>and had a third-party audit that said yes, then that we</b></p> <p>11 <b>regarded as being UEP acceptable -- or to meeting the</b></p> <p>12 <b>requirements of UEP.</b></p> <p>13 Q. And if a producer was not in compliance with</p> <p>14 one aspect of the UEP guidelines, would they still be</p> <p>15 allowed, under the language that you drafted, to supply</p> <p>16 eggs to Safeway?</p> <p>17 <b>A. No. They would -- if they were missing one,</b></p> <p>18 <b>they were not, unless they corrected that.</b></p> <p>19 Q. Do you recall any discussions in drafting this</p> <p>20 language about the UEP guidelines containing a section</p> <p>21 requiring certification?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. And what do you recall about those discussions?</p> <p>24 <b>A. Simply that they were -- UEP would control</b></p> <p>25 <b>that, and that they had their own inspectors who would</b></p>
<p style="text-align: right;">59</p> <p>1 <b>A. We were going -- the intent in the wording was</b></p> <p>2 <b>to require all egg suppliers to comply with the</b></p> <p>3 <b>UEP guidelines. It did not specifically say they had to</b></p> <p>4 <b>be UEP members or approved, but they had to apply --</b></p> <p>5 <b>comply with the guidelines.</b></p> <p>6 Q. Are you aware that at the time -- are you aware</p> <p>7 of whether, at the time, the UEP guidelines required egg</p> <p>8 suppliers to be certified?</p> <p>9 <b>A. I don't recall, no.</b></p> <p>10 Q. Do you recall whether at the time the</p> <p>11 UEP guidelines required egg suppliers to be members of</p> <p>12 the UEP?</p> <p>13 <b>A. No, I do not.</b></p> <p>14 Q. Did you inquire, or did anyone on your team</p> <p>15 inquire, as to what compliance with the UEP guidelines</p> <p>16 entailed?</p> <p>17 <b>A. I was aware of the program, but I'm not sure</b></p> <p>18 <b>what my team would...</b></p> <p>19 Q. Fair enough. Do you recall being made aware of</p> <p>20 any aspect of the UEP guidelines that would require</p> <p>21 companies to become certified?</p> <p>22 <b>A. The definition of certified, could you clarify</b></p> <p>23 <b>the definition of certified?</b></p> <p>24 Q. I can't. Just do you recall any discussions</p> <p>25 about certification related to the UEP guidelines?</p>	<p style="text-align: right;">61</p> <p>1 <b>do the certification.</b></p> <p>2 Q. All right. Do you recall any discussions about</p> <p>3 UEP using third-party vendors to do the audits and</p> <p>4 certifications?</p> <p>5 <b>A. That was what I understand, was that they were</b></p> <p>6 <b>third-party.</b></p> <p>7 Q. And so you understand that UEP itself wasn't</p> <p>8 auditing its --</p> <p>9 <b>A. Correct.</b></p> <p>10 Q. -- its members?</p> <p>11 <b>A. Correct.</b></p> <p>12 Q. And do you understand that at the time</p> <p>13 UEP guidelines included a section requiring</p> <p>14 certification in order to be in compliance with the</p> <p>15 UEP guidelines?</p> <p>16 <b>A. No. I wasn't aware of that.</b></p> <p>17 Q. Before you drafted the language -- I'm sorry,</p> <p>18 strike that.</p> <p>19 Who instructed you, if anyone, to draft</p> <p>20 language incorporating the UEP guidelines?</p> <p>21 <b>A. No one.</b></p> <p>22 Q. This was a decision that you made?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. And why did you make the decision to go with</p> <p>25 the UEP guidelines rather than, say, another animal</p>

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17 (Pages 62 to 65)

<p style="text-align: right;">62</p> <p>1 husbandry program?</p> <p>2 <b>A. It appeared the most -- to be the most widely</b></p> <p>3 <b>industry-accepted policy at the time.</b></p> <p>4 Q. And when you mean widely industry-accepted, do</p> <p>5 you mean accepted by both purchasers of eggs as well as</p> <p>6 the producers of eggs?</p> <p>7 <b>A. It was -- with the McDonald's, yes. So</b></p> <p>8 <b>producers and purchasers of eggs.</b></p> <p>9 Q. And why was that important to you in selecting</p> <p>10 the UEP guidelines to be the program for which Safeway</p> <p>11 would require compliance?</p> <p>12 MR. MURRAY: Object to the form of the</p> <p>13 question. It mischaracterizes his testimony.</p> <p>14 You can answer.</p> <p>15 <b>A. It -- it appeared to be the easiest program to</b></p> <p>16 <b>get approved and get implemented.</b></p> <p>17 Q. (BY MR. FONTECILLA) Approved and implemented</p> <p>18 by whom?</p> <p>19 <b>A. By -- well, it was already approved by our</b></p> <p>20 <b>group, but it was implemented so that vendors would</b></p> <p>21 <b>accept it and would --</b></p> <p>22 Q. So just I'm clear -- I didn't mean to cut you</p> <p>23 off.</p> <p>24 <b>A. No. No. It was simply that it was a program</b></p> <p>25 <b>that appeared to be a working program that was</b></p>	<p style="text-align: right;">64</p> <p>1 <b>A. Not be required to join, yes.</b></p> <p>2 Q. And why is it that Safeway did not want to be</p> <p>3 seen as mandating suppliers to join any particular</p> <p>4 organization?</p> <p>5 MR. MURRAY: Objection. He's not here to</p> <p>6 talk on behalf of Safeway.</p> <p>7 <b>A. It -- it was not a Safeway policy. It was --</b></p> <p>8 <b>it would have been my decision. We -- as quality</b></p> <p>9 <b>assurance, we tried not to show favoritism towards</b></p> <p>10 <b>any -- any specific organization. We want to provide</b></p> <p>11 <b>vendors with flexibility, while maintaining the quality</b></p> <p>12 <b>and safety issues.</b></p> <p>13 Q. (BY MR. FONTECILLA) And at any time after you</p> <p>14 drafted the language, did you ever reassess or</p> <p>15 reevaluate the language in the specifications --</p> <p>16 <b>A. No.</b></p> <p>17 Q. -- regarding the UEP guidelines?</p> <p>18 <b>A. No.</b></p> <p>19 MR. MURRAY: You've got to let him finish,</p> <p>20 so --</p> <p>21 THE WITNESS: I'm sorry.</p> <p>22 Q. (BY MR. FONTECILLA) And why not?</p> <p>23 <b>A. There was --</b></p> <p>24 MR. MURRAY: Object to the form of the</p> <p>25 question.</p>
<p style="text-align: right;">63</p> <p>1 <b>acceptable to both the vendors and to suppliers.</b></p> <p>2 Q. And do you recall any discussions about why the</p> <p>3 UEP guidelines program was acceptable to suppliers?</p> <p>4 <b>A. Not really, no. It --</b></p> <p>5 Q. Do you recall -- oh, sorry. Go ahead.</p> <p>6 <b>A. It -- it was simply through the organization</b></p> <p>7 <b>that it was being done, that they had worked -- the</b></p> <p>8 <b>assumption was they had worked it out, but I don't</b></p> <p>9 <b>really have any knowledge.</b></p> <p>10 Q. And when you say "the organization," are you</p> <p>11 referring to --</p> <p>12 <b>A. UEP.</b></p> <p>13 Q. -- UEP?</p> <p>14 <b>A. UEP, I'm sorry.</b></p> <p>15 Q. And why was it that you drafted the language</p> <p>16 with the intent of requiring egg suppliers to be in</p> <p>17 compliance with the guidelines, but not include a</p> <p>18 UEP certification requirement?</p> <p>19 <b>A. We didn't want to be seen as mandating a</b></p> <p>20 <b>supplier join a specific organization.</b></p> <p>21 Q. So it would be fine -- strike that.</p> <p>22 So it was your intent for it to be</p> <p>23 acceptable for an egg supplier to comply with the cage</p> <p>24 space guidelines of the UEP animal husbandry guidelines,</p> <p>25 but not actually join UEP?</p>	<p style="text-align: right;">65</p> <p>1 <b>A. There was never a need to. We never had a</b></p> <p>2 <b>supplier ask for an audit who was not a UEP member or</b></p> <p>3 <b>ask for -- ask to be a supplier who was not already UEP</b></p> <p>4 <b>certified.</b></p> <p>5 Q. (BY MR. FONTECILLA) Are you testifying that</p> <p>6 you're not aware of any egg suppliers seeking to supply</p> <p>7 Safeway with eggs that were not UEP members?</p> <p>8 <b>A. No, I didn't testify to that. I testified --</b></p> <p>9 <b>let me clarify --</b></p> <p>10 Q. Yes, please.</p> <p>11 <b>A. -- the question. We did not have a non-UEP</b></p> <p>12 <b>supplier come to us and say, I will comply with the</b></p> <p>13 <b>UEP guidelines, but I will not join UEP.</b></p> <p>14 Q. So you didn't think it was necessary to mandate</p> <p>15 membership in UEP because all the suppliers that were</p> <p>16 supplying Safeway at the time were already members of</p> <p>17 UEP?</p> <p>18 MR. MURRAY: Objection to form,</p> <p>19 mischaracterizes his testimony.</p> <p>20 <b>A. No, that's not what I said.</b></p> <p>21 Q. (BY MR. FONTECILLA) You said, "We did not have</p> <p>22 a non-UEP supplier come to us and say, I will comply</p> <p>23 with the UEP guidelines, but I will not join UEP,"</p> <p>24 right?</p> <p>25 <b>A. Correct.</b></p>

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<p style="text-align: right;">66</p> <p>1 Q. Were you aware of any suppliers that were not 2 UEP members?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. And did those suppliers comply with the 5 UEP guidelines, even though they were not UEP members?</p> <p>6 <b>A. Not to my knowledge.</b></p> <p>7 Q. And did you ever consider changing the 8 compliance requirement from the UEP guidelines to any 9 other animal husbandry program at any time?</p> <p>10 <b>A. No.</b></p> <p>11 Q. And why not?</p> <p>12 <b>A. It was a functional, acceptable program that 13 was working for us, and it was -- frankly, we had so 14 many other issues with different products that it was 15 not a big -- there was really never a need to.</b></p> <p>16 Q. Did -- do you recall any discussions at your 17 time at Safeway about the requirement that suppliers 18 comply with the UEP guidelines affecting the cost of the 19 eggs that Safeway was purchasing?</p> <p>20 MR. MURRAY: Objection, asked and answered.</p> <p>21 <b>A. No. I didn't discuss cost.</b></p> <p>22 Q. (BY MR. FONTECILLA) And do you recall any 23 discussions at any time at your time at Safeway about 24 the effect that including the UEP guidelines in the 25 specifications would have on the supplier price of eggs</p>	<p style="text-align: right;">68</p> <p>1 Q. (BY MR. FONTECILLA) And that's your signature 2 on the last page?</p> <p>3 <b>A. Yes, sir.</b></p> <p>4 <b>(Exhibit No. 2 marked.)</b></p> <p>5 Q. (BY MR. FONTECILLA) Okay. You've been handed 6 what's been marked as Exhibit 2, Mr. Lawrence. Do you 7 recognize this document?</p> <p>8 <b>A. It appears to be an e-mail from Gene Gregory to 9 me.</b></p> <p>10 Q. Have you seen this document before?</p> <p>11 <b>A. I don't recall, but...</b></p> <p>12 Q. This is -- if you look halfway down, where it 13 says "Original Message," and then --</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. -- it says "From David Lawrence." Do you see 16 that?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. That's your e-mail address next to your name?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. And this looks like an e-mail that you would 21 have sent while you were an employee at Safeway?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. And this was in about 2002, right?</p> <p>24 <b>A. Correct.</b></p> <p>25 Q. And in or around September 17th, 2002, the date</p>
<p style="text-align: right;">67</p> <p>1 that Safeway was purchasing from its vendors?</p> <p>2 MR. MURRAY: Object to the form of the 3 question.</p> <p>4 <b>A. Not that I remember, no.</b></p> <p>5 Q. (BY MR. FONTECILLA) Do you know whether there 6 would be or whether there was someone at Safeway, while 7 you were there, that was having those discussions?</p> <p>8 <b>A. I don't know for a fact. I assume that our 9 marketing people would -- would beware of all the cost 10 effect, but that's assumption. I don't know.</b></p> <p>11 Q. Did you -- or are you aware of you or anyone on 12 your QA team ever reporting to the marketing folks 13 anything about the UEP guidelines?</p> <p>14 <b>A. Other than who was complying with them and who 15 was not -- or who was complying with them, no, I'm not 16 aware of any.</b></p> <p>17 <b>(Exhibit No. 1 marked.)</b></p> <p>18 Q. (BY MR. FONTECILLA) Mr. Lawrence, you've been 19 handed what's been marked as Exhibit 1.</p> <p>20 MR. MURRAY: Do you have a copy for me?</p> <p>21 Q. (BY MR. FONTECILLA) Do you recognize that to 22 be a copy of the protective order that you signed this 23 morning?</p> <p>24 MR. MURRAY: Oh, okay.</p> <p>25 <b>A. Oh. Yes.</b></p>	<p style="text-align: right;">69</p> <p>1 of your e-mail, you would have been a quality assurance 2 auditor for the Midwest region at Safeway; is that 3 right?</p> <p>4 <b>A. Actually, I may was a manager at this time.</b></p> <p>5 Q. You were a manager then --</p> <p>6 <b>A. Yeah.</b></p> <p>7 Q. -- excuse me, right.</p> <p>8 And do you recall sending this e-mail to 9 Gene Gregory? Please take your time to review it.</p> <p>10 <b>A. I don't recall, but it's evident that it was an 11 e-mail from me, so...</b></p> <p>12 Q. And you see that you're asking him for a list 13 of all the current suppliers who met UEP's animal 14 husbandry guidelines?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. And do you -- does this refresh your 17 recollection about why -- if there were any other 18 additional reasons than the ones you've testified about, 19 why you were asking Mr. Gregory about the 20 UEP guidelines?</p> <p>21 <b>A. I was probably interested in assuring that 22 there were a large enough number of people in 23 compliance.</b></p> <p>24 Q. And when you say "a large enough number of 25 people in compliance," do you mean a large enough number</p>

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19 (Pages 70 to 73)

<p style="text-align: right;">70</p> <p>1 of egg suppliers --</p> <p>2 <b>A. Egg suppliers.</b></p> <p>3 Q. -- in compliance with the UEP guidelines?</p> <p>4 <b>A. To make it worthwhile for us to begin auditing</b></p> <p>5 <b>and look at the -- and trying to -- trying to ascertain</b></p> <p>6 <b>how widespread the acceptance of the program was.</b></p> <p>7 Q. And do you see in the last sentence of the</p> <p>8 paragraph of the e-mail that you sent Mr. Gregory on or</p> <p>9 about --</p> <p>10 <b>A. Uh-huh.</b></p> <p>11 Q. -- December 17th of 2002, do you see that it</p> <p>12 says, "I want to assure that all suppliers to Safeway</p> <p>13 are in compliance"?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. What did you mean when you stated that you</p> <p>16 wanted to ensure that all suppliers to Safeway are in</p> <p>17 compliance?</p> <p>18 <b>A. I would check the people that were currently</b></p> <p>19 <b>supplying Safeway, and if they were registered with UEP,</b></p> <p>20 <b>we knew they were meeting it. If there were those that</b></p> <p>21 <b>weren't, we would have to go to them -- those that</b></p> <p>22 <b>weren't listed, we would have to go to them and make</b></p> <p>23 <b>sure that they were in compliance.</b></p> <p>24 Q. Do you recall identifying, after receiving</p> <p>25 information from Mr. Gregory, any Safeway egg suppliers</p>	<p style="text-align: right;">72</p> <p>1 ensure that its suppliers were in compliance with the</p> <p>2 UEP guidelines?</p> <p>3 <b>A. I am not sure.</b></p> <p>4 Q. Would it --</p> <p>5 <b>A. It --</b></p> <p>6 Q. -- have been -- I'm sorry, go ahead.</p> <p>7 <b>A. It would have been prior to December 17th,</b></p> <p>8 <b>2002.</b></p> <p>9 Q. And you stated that you became the quality</p> <p>10 assurance manager in about 2001?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. Would it have been before you started as the</p> <p>13 quality assurance manager?</p> <p>14 <b>A. I don't know. I really don't recollect.</b></p> <p>15 Q. And do you see in the e-mail above, it's a</p> <p>16 response to your e-mail from Mr. Gregory?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. Do you see where he talks about -- in the first</p> <p>19 line, about a phase-in schedule of the guidelines?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. Okay. Do you have an understanding of what he</p> <p>22 was referring to?</p> <p>23 <b>A. I vaguely recall that there were some</b></p> <p>24 <b>percentages that were going to be converted, but, no, I</b></p> <p>25 <b>don't recall the exact schedule.</b></p>
<p style="text-align: right;">71</p> <p>1 that were not in compliance with the UEP guidelines?</p> <p>2 <b>A. No, I don't.</b></p> <p>3 Q. Okay. Do you remember checking to make sure</p> <p>4 that all the current Safeway egg suppliers were in</p> <p>5 compliance with the UEP guidelines?</p> <p>6 <b>A. I don't specifically remember checking, no.</b></p> <p>7 Q. Do you have any reason to believe that you</p> <p>8 would not have checked?</p> <p>9 <b>A. No.</b></p> <p>10 MR. MURRAY: Objection to the form of the</p> <p>11 question, calls for speculation.</p> <p>12 Q. (BY MR. FONTECILLA) At this time, if you had</p> <p>13 discovered that one of your suppliers was not in</p> <p>14 compliance with the UEP guidelines, you testified that</p> <p>15 you would have gone to that supplier, right?</p> <p>16 <b>A. Correct.</b></p> <p>17 Q. What would you have asked that supplier to do?</p> <p>18 <b>A. To immediately comply.</b></p> <p>19 Q. So would it be fair to say that as early as</p> <p>20 2002 Safeway wanted its egg suppliers to be in</p> <p>21 compliance with the UEP guidelines?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. Do you see -- do you know when that would have</p> <p>24 started? Let me rephrase.</p> <p>25 When did Safeway first start wanting to</p>	<p style="text-align: right;">73</p> <p>1 Q. Do you mean percentages of egg suppliers who</p> <p>2 were going to be in compliance with the cage space</p> <p>3 requirements of the UEP guidelines?</p> <p>4 <b>A. No. It was each organization would be</b></p> <p>5 <b>converting a percentage of their flock to the</b></p> <p>6 <b>UEP guidelines.</b></p> <p>7 Q. And was the ultimate goal of that phase-in</p> <p>8 schedule for each supplier to have 100 percent of their</p> <p>9 flocks --</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. -- compliant with the UEP guidelines?</p> <p>12 <b>A. That's my understanding.</b></p> <p>13 Q. Are you familiar with the term "the 100 percent</p> <p>14 rule"?</p> <p>15 <b>A. No.</b></p> <p>16 Q. Okay. Are you aware of any requirement in the</p> <p>17 UEP guidelines about a percentage of a particular</p> <p>18 supplier's flocks that must be in compliance with the</p> <p>19 UEP guidelines?</p> <p>20 <b>A. I'm not familiar, but that was my recollection</b></p> <p>21 <b>and -- what I said, the percentage transition.</b></p> <p>22 Q. Would Safeway at this time have wanted to</p> <p>23 ensure that its egg suppliers were compliant with</p> <p>24 UEP guidelines at all their facilities?</p> <p>25 MR. MURRAY: Object to the form of the</p>



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20 (Pages 74 to 77)

<p style="text-align: right;">74</p> <p>1 question. He's not here on behalf of Safeway.</p> <p>2 <b>A. I don't know what Safeway would have wanted.</b></p> <p>3 Q. (BY MR. FONTECILLA) You were the quality</p> <p>4 assurance manager at the --</p> <p>5 <b>A. I --</b></p> <p>6 Q. -- time at Safeway, right?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. Was there anyone else above you in charge of</p> <p>9 quality assurance and inspecting and ensuring that egg</p> <p>10 suppliers were in compliance with UEP guidelines?</p> <p>11 <b>A. I would have been the responsible person for</b></p> <p>12 <b>that.</b></p> <p>13 Q. And in your role as quality assurance manager,</p> <p>14 would Safeway or the quality assurance group at this</p> <p>15 time have wanted to ensure that its egg suppliers were</p> <p>16 complying with UEP guidelines at all of that egg</p> <p>17 supplier's facilities?</p> <p>18 <b>A. No.</b></p> <p>19 Q. And why not?</p> <p>20 <b>A. We were only concerned with the facilities</b></p> <p>21 <b>supplying Safeway.</b></p> <p>22 Q. And so if a supplier was supplying Safeway with</p> <p>23 eggs from a facility that was complying with the cage</p> <p>24 space requirements, but had or owned a facility that had</p> <p>25 a lower ^ [sic] hen cage density, that would have been</p>	<p style="text-align: right;">76</p> <p>1 going to make an objection here for the record. I</p> <p>2 believe that you are instructing the witness, and the</p> <p>3 Rules prohibit you from making an objection to form that</p> <p>4 affects the witness' testimony.</p> <p>5 And over the course of today it has</p> <p>6 appeared that when you make a speaking objection, which</p> <p>7 is improper, about him not being a 30(b)(6) witness on</p> <p>8 behalf of the company, it is altering the witness'</p> <p>9 testimony. So I would just caution you about making</p> <p>10 proper objections.</p> <p>11 MR. MURRAY: Well -- then change the form</p> <p>12 of your question. I'm stating the objection and the</p> <p>13 basis -- the legal basis for the objection. I'm not</p> <p>14 making speaking objections.</p> <p>15 Q. (BY MR. FONTECILLA) As quality assurance</p> <p>16 manager at the time, Mr. Lawrence, if you had discovered</p> <p>17 that a facility of one of your egg suppliers was the</p> <p>18 subject of a news report where the hen density was being</p> <p>19 reported as been inhumane or particularly small, would</p> <p>20 you continue to use that egg supplier if the facility</p> <p>21 that you bought from was in compliance with the</p> <p>22 UEP guidelines?</p> <p>23 MR. MURRAY: Object to the form of the</p> <p>24 question, asked and answered, calls for speculation.</p> <p>25 <b>A. The facility that was in compliance would have</b></p>
<p style="text-align: right;">75</p> <p>1 acceptable to the QA group at the time?</p> <p>2 MR. MURRAY: Object to the form of the</p> <p>3 question.</p> <p>4 <b>A. We certified individual units.</b></p> <p>5 Q. (BY MR. FONTECILLA) And by units, you mean</p> <p>6 particular facilities?</p> <p>7 <b>A. A facility, egg operation. If they had A, B,</b></p> <p>8 <b>and C in Kansas, Oklahoma, and Missouri, if No. 1 is in</b></p> <p>9 <b>Kansas and that's where we were sourcing, we would only</b></p> <p>10 <b>inspect and approve that. The other two would not have</b></p> <p>11 <b>been.</b></p> <p>12 Q. If a news report had come out about a</p> <p>13 particular facility having a hen density of -- that's</p> <p>14 lower ^ [sic] than UEP guidelines, but Safeway or your</p> <p>15 group confirmed that that facility was not the</p> <p>16 particular facility supplying Safeway, would Safeway</p> <p>17 still buy eggs from that egg supplier?</p> <p>18 MR. MURRAY: Objection to the form of the</p> <p>19 question. It calls for speculation, and he's not here</p> <p>20 on -- to talk about Safeway's policy.</p> <p>21 <b>A. Yeah. I -- I had no responsibility for buying</b></p> <p>22 <b>and specifying who we bought from, other than to</b></p> <p>23 <b>approve. So I don't know if they would have continued</b></p> <p>24 <b>or not.</b></p> <p>25 MR. FONTECILLA: If -- and, Counsel, I'm</p>	<p style="text-align: right;">77</p> <p>1 <b>been approved from a quality assurance standpoint.</b></p> <p>2 <b>Whether the purchasing manager continued to use that</b></p> <p>3 <b>facility or not would have been beyond my purview.</b></p> <p>4 Q. (BY MR. FONTECILLA) Fair enough. Do you see</p> <p>5 in Mr. Gregory's response to you it says, halfway down,</p> <p>6 "The best way you can be sure to demonstrate that</p> <p>7 Safeway is responding to this public issue is to require</p> <p>8 your suppliers to place the UEP animal care certified</p> <p>9 logo on egg cartons."</p> <p>10 Do you see that?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. What did you understand Mr. Gregory to be</p> <p>13 saying?</p> <p>14 <b>A. He was promoting the use of the UEP logo, is my</b></p> <p>15 <b>understanding.</b></p> <p>16 Q. And did Safeway encourage its suppliers to use</p> <p>17 the logo?</p> <p>18 <b>A. No. Because of the wording that we used</b></p> <p>19 <b>earlier, it precluded the use of that by all suppliers.</b></p> <p>20 Q. You mean it didn't require the use of the logo?</p> <p>21 <b>A. No. The requirement we had in our</b></p> <p>22 <b>specification that said the vendor had to comply with,</b></p> <p>23 <b>meant that vendors who were not members of UEP could</b></p> <p>24 <b>still provide eggs to us if -- even if they weren't, as</b></p> <p>25 <b>long as they met the UEP guidelines, but they could not</b></p>

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<p style="text-align: right;">78</p> <p>1 have used the UEP logo on there. So we chose not to use</p> <p>2 it, simply for that reason.</p> <p>3 Q. But there were suppliers that supplied Safeway</p> <p>4 with eggs that had the logo, right?</p> <p>5 A. Yes.</p> <p>6 Q. And did having the logo make inspecting or</p> <p>7 auditing those suppliers easier?</p> <p>8 A. No.</p> <p>9 Q. Did having the logo in any way give your team</p> <p>10 more assurance about that supplier's compliance with</p> <p>11 Safeway's egg specifications?</p> <p>12 A. Having the logo? No.</p> <p>13 Q. And that was a specification that you drafted</p> <p>14 in about 2004 or 2005, you said?</p> <p>15 A. Yeah. And it may have been earlier. That's --</p> <p>16 my recollection was 2004 or '5, but it -- based on this,</p> <p>17 the negotiation and discussion was earlier, so...</p> <p>18 Q. And this e-mail is in about December 2002,</p> <p>19 right?</p> <p>20 A. Yes.</p> <p>21 Q. Do you see in the last sentence of that</p> <p>22 paragraph in the e-mail from Mr. Gregory to you, it</p> <p>23 says, "Your supplier can make this logo available to you</p> <p>24 and be willing to discuss their cost of the program."</p> <p>25 Do you see that?</p>	<p style="text-align: right;">80</p> <p>1 just so that the record is clear, is it your testimony</p> <p>2 that you did not understand this sentence to imply any</p> <p>3 cost by the supplier of being a UEP certified company?</p> <p>4 MR. MURRAY: Objection, asked and answered.</p> <p>5 A. I have no recollection of what my thought at</p> <p>6 this time would have been on that. I was more concerned</p> <p>7 with getting a list of who the certified vendors were,</p> <p>8 so...</p> <p>9 Q. (BY MR. FONTECILLA) And do you recall what, if</p> <p>10 anything, you did in response to this e-mail exchange</p> <p>11 with Mr. Gregory?</p> <p>12 A. No, I don't.</p> <p>13 Q. Do you recall whether Mr. Gregory ultimately</p> <p>14 did send you a list of UEP compliant or UEP certified</p> <p>15 companies?</p> <p>16 A. No. I don't, no.</p> <p>17 Q. Do you recall whether you sent this information</p> <p>18 or shared this information in any way with anyone else</p> <p>19 at Safeway?</p> <p>20 A. No, I don't.</p> <p>21 (Exhibit No. 3 marked.)</p> <p>22 Q. (BY MR. FONTECILLA) You've been handed what's</p> <p>23 been marked as Exhibit 3. Go ahead and take a minute to</p> <p>24 look at that document. There's a blue slip sheet</p> <p>25 separating the e-mail from the attachment.</p>
<p style="text-align: right;">79</p> <p>1 A. Yes.</p> <p>2 Q. What do you understand Mr. Gregory to have been</p> <p>3 telling you when he says that the egg suppliers would be</p> <p>4 willing to discuss their cost of the program?</p> <p>5 A. Well, when I saw that, I probably thought, I'm</p> <p>6 not going to discuss cost with -- about anything that...</p> <p>7 Q. But he did say that there were costs associated</p> <p>8 with a particular supplier's program?</p> <p>9 MR. MURRAY: Objection, mischaracterizing</p> <p>10 the document.</p> <p>11 A. I'm -- I would have read this that there were</p> <p>12 costs to using the logo.</p> <p>13 Q. (BY MR. FONTECILLA) And would you have</p> <p>14 understood that to mean costs involved in being a UEP</p> <p>15 member or UEP certified member?</p> <p>16 MR. MURRAY: Object to the form of the</p> <p>17 question.</p> <p>18 A. I really can't even remember what I would have</p> <p>19 thought. There was so many e-mails on so many different</p> <p>20 topics, that I probably just -- anytime I saw a cost, I</p> <p>21 didn't really register anything. That was -- that was</p> <p>22 an issue that our purchasing group would handle.</p> <p>23 Q. (BY MR. FONTECILLA) Right, sir. And I</p> <p>24 understand that's the general -- generally what</p> <p>25 happened. But specifically referring to this e-mail,</p>	<p style="text-align: right;">81</p> <p>1 A. Okay.</p> <p>2 Q. Okay. Do you recall receiving this e-mail from</p> <p>3 Mr. Gregory?</p> <p>4 A. No, I don't.</p> <p>5 Q. Okay. But it appears to be an e-mail that you</p> <p>6 received from Mr. Gregory on December 18th, 2002?</p> <p>7 A. Yes.</p> <p>8 Q. And do you see that to be the date after the</p> <p>9 date on the e-mail exchange in Exhibit 2?</p> <p>10 A. Yes.</p> <p>11 Q. Do you -- does this refresh your recollection</p> <p>12 about whether you received a copy of UEP animal</p> <p>13 certified companies, as you requested?</p> <p>14 A. It doesn't -- I don't remember anything about</p> <p>15 this, no.</p> <p>16 Q. But it -- would you agree that it seems to be</p> <p>17 that Mr. Gregory --</p> <p>18 A. It --</p> <p>19 Q. -- did, in fact, send you the list?</p> <p>20 A. Yes, it appears so.</p> <p>21 Q. And in the e-mail he sends you, he says,</p> <p>22 "Attached are six pages listing the companies recognized</p> <p>23 by UEP as animal care certified companies," right?</p> <p>24 A. Yes.</p> <p>25 Q. And would you agree that the attachment appears</p>



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<p style="text-align: right;">82</p> <p>1 to be a list of UEP animal certified companies at that</p> <p>2 time?</p> <p>3 MR. MURRAY: Object to the form of the</p> <p>4 question, calls for speculation.</p> <p>5 <b>A. It states that it is the list, so...</b></p> <p>6 Q. (BY MR. FONTECILLA) What is the title at the</p> <p>7 top of the first page of the attachment?</p> <p>8 <b>A. The list of animal care certified companies and</b></p> <p>9 <b>contact.</b></p> <p>10 Q. And please take your time reviewing this</p> <p>11 document, but do you recognize any of the company names</p> <p>12 listed in the attachment? And if you can just say their</p> <p>13 name as you go through it, if you recognize them.</p> <p>14 <b>A. Cal-Maine; Herbruck's Poultry Ranch; Hillandale</b></p> <p>15 <b>Farms; Moark Productions; National Food Corp.; Norco</b></p> <p>16 <b>Ranch; Pilgrim's Pride Corp.; R.W. Sauder, Inc.; Sparboe</b></p> <p>17 <b>Companies; Stiebrs Farms -- appears to be a number.</b></p> <p>18 Q. So I want to take those one at a time.</p> <p>19 <b>A. Uh-huh.</b></p> <p>20 Q. You mentioned you Cal-Maine Foods, which is on</p> <p>21 the first page of the attachment.</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. At the time that you received this e-mail, was</p> <p>24 Cal-Maine Foods a supplier of eggs or egg products to</p> <p>25 Safeway?</p>	<p style="text-align: right;">84</p> <p>1 <b>A. Just -- just the knowledge that they were a</b></p> <p>2 <b>supplier of eggs and egg products.</b></p> <p>3 Q. At some time to Safeway?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. And how do you recognize Norco Ranch?</p> <p>6 <b>A. The same, they were a supplier of eggs to</b></p> <p>7 <b>Safeway at one time. I'm not --</b></p> <p>8 Q. And how do you --</p> <p>9 <b>A. -- I'm not sure of that specific time frame at</b></p> <p>10 <b>this time, but I know that they were suppliers.</b></p> <p>11 Q. And how do you recognize Pilgrims Pride</p> <p>12 Corporation?</p> <p>13 <b>A. That they were -- they were a supplier of</b></p> <p>14 <b>chickens to our deli program at one time.</b></p> <p>15 Q. And how do you recognize R.W. Sauder?</p> <p>16 <b>A. At one time they were a supplier of eggs or egg</b></p> <p>17 <b>products.</b></p> <p>18 Q. And how do you recognize Sparboe Companies?</p> <p>19 <b>A. That at some time they were a supplier of eggs</b></p> <p>20 <b>to Safeway.</b></p> <p>21 Q. How do you recognize Stiebrs Farms?</p> <p>22 <b>A. That they were a supplier of eggs to Safeway at</b></p> <p>23 <b>some time.</b></p> <p>24 Q. Okay. At any time have you had an</p> <p>25 understanding about whether any of the entities we just</p>
<p style="text-align: right;">83</p> <p>1 <b>A. I really don't remember.</b></p> <p>2 Q. Do you recall checking this list for any</p> <p>3 suppliers that Safeway had at the time?</p> <p>4 <b>A. No, I don't.</b></p> <p>5 Q. You also mentioned Herbruck's Poultry Ranch --</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. -- which is on the second page.</p> <p>8 Do you recall whether, at the time you</p> <p>9 received this e-mail in December 2002, how you were</p> <p>10 aware of Herbruck's?</p> <p>11 <b>A. I'm just aware that they were a producer. The</b></p> <p>12 <b>name is familiar.</b></p> <p>13 Q. How are you familiar with the Hillandale Farms</p> <p>14 entity listed on the second page of the attachment?</p> <p>15 <b>A. At one time they were a supplier to Safeway,</b></p> <p>16 <b>but I'm not sure at what time -- you know, what the time</b></p> <p>17 <b>frame is.</b></p> <p>18 Q. How are you familiar with Moark Productions,</p> <p>19 listed on the third page of the attachment?</p> <p>20 <b>A. They were a supplier to Safeway, and I</b></p> <p>21 <b>inspected one of their facilities as an auditor when</b></p> <p>22 <b>I -- in Missouri.</b></p> <p>23 Q. And how do you recognize the National Food</p> <p>24 Corp., which is listed on the third page of the</p> <p>25 attachment?</p>	<p style="text-align: right;">85</p> <p>1 went through in this exhibit were UEP members?</p> <p>2 <b>A. They were listed on this list.</b></p> <p>3 Q. And so did you have an understanding, when you</p> <p>4 received this list, that these were UEP members?</p> <p>5 MR. MURRAY: Objection to the form of the</p> <p>6 question.</p> <p>7 <b>A. I don't recall, but -- whether it was, but</b></p> <p>8 <b>since they were on the list and this was recognized by</b></p> <p>9 <b>UEP, I would assume they were.</b></p> <p>10 Q. (BY MR. FONTECILLA) So would it be fair to say</p> <p>11 that you would have taken Mr. Gregory's representation</p> <p>12 of the list at face value?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. And you would have understood that these</p> <p>15 companies were complying with the UEP guidelines?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. And you would have used them as suppliers to</p> <p>18 Safeway at the time?</p> <p>19 MR. MURRAY: Object to the form of the</p> <p>20 question.</p> <p>21 <b>A. The policy would have been for the respective</b></p> <p>22 <b>quality assurance auditor to obtain a copy of their</b></p> <p>23 <b>certification.</b></p> <p>24 Q. (BY MR. FONTECILLA) Of their</p> <p>25 UEP certification?</p>

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23 (Pages 86 to 89)

<p style="text-align: right;">86</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. And what would Safeway do, once they had</p> <p>3 obtained a copy of the UEP certification for each</p> <p>4 company?</p> <p>5 <b>A. The auditors would have put them in the packer</b></p> <p>6 <b>files?</b></p> <p>7 Q. And that would have allowed Safeway to purchase</p> <p>8 eggs from that particular supplier?</p> <p>9 MR. MURRAY: Objection to the form of the</p> <p>10 question.</p> <p>11 <b>A. It -- it would have certified them as</b></p> <p>12 <b>acceptable for purchase.</b></p> <p>13 Q. (BY MR. FONTECILLA) And if at this time a</p> <p>14 certification certificate was not available for any egg</p> <p>15 supplier, what would the effect of that be?</p> <p>16 <b>A. The effect should have been that they would not</b></p> <p>17 <b>be approved until they provided a certificate.</b></p> <p>18 Q. And what if the company did not provide a</p> <p>19 certificate?</p> <p>20 <b>A. The eggs should not have been sourced from</b></p> <p>21 <b>that -- that specific vendor.</b></p> <p>22 Q. And looking at Mr. Gregory's cover e-mail, do</p> <p>23 you see that it says in the second paragraph, "You would</p> <p>24 be pleased to know that this list represents 224 million</p> <p>25 layers or about 80 percent of the entire US egg</p>	<p style="text-align: right;">88</p> <p>1 <b>A. No, I don't remember what I did with it.</b></p> <p>2 Q. (BY MR. FONTECILLA) Given your history as a</p> <p>3 quality assurance manager at this time, and your</p> <p>4 functions at that time, what would you have done -- do</p> <p>5 you think you would have done with this?</p> <p>6 MR. MURRAY: Objection, calls for</p> <p>7 speculation.</p> <p>8 <b>A. Standard policy would have been to send it to</b></p> <p>9 <b>the quality assurance auditors and tell them to review</b></p> <p>10 <b>it for their packers, to make sure they're on there.</b></p> <p>11 Q. (BY MR. FONTECILLA) And by packers you mean</p> <p>12 the egg suppliers --</p> <p>13 <b>A. Egg suppliers.</b></p> <p>14 Q. -- that they --</p> <p>15 <b>A. Yeah.</b></p> <p>16 Q. Other than not sourcing from suppliers that</p> <p>17 would not have been listed on this list, would Safeway</p> <p>18 treat noncertified companies at this time any</p> <p>19 differently?</p> <p>20 MR. MURRAY: Objection.</p> <p>21 Again, you're asking about Safeway. Not</p> <p>22 here on behalf of Safeway.</p> <p>23 <b>A. I'm not sure how purchasing would have. From a</b></p> <p>24 <b>quality assurance standpoint, we would have contacted</b></p> <p>25 <b>anybody not listed to find out if they were certified.</b></p>
<p style="text-align: right;">87</p> <p>1 industry"?</p> <p>2 <b>A. Yeah.</b></p> <p>3 Q. Did I read that correctly?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. What do you understand Mr. Gregory to have been</p> <p>6 saying there?</p> <p>7 <b>A. That they had a large buy-in from the egg</b></p> <p>8 <b>industry.</b></p> <p>9 Q. And would it be fair to say that this was the</p> <p>10 type of buy-in or levels of buy-in that we had discussed</p> <p>11 earlier would be a pro in terms of an animal husbandry</p> <p>12 program that Safeway was evaluating?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. And do you recall ever seeing these -- this</p> <p>15 level of buy-in for any other animal husbandry program</p> <p>16 in the egg industry?</p> <p>17 <b>A. I don't recall seeing any -- any type of</b></p> <p>18 <b>statistics for other programs.</b></p> <p>19 Q. Are you aware of any other animal husbandry</p> <p>20 program in the egg industry having this level of buy-in</p> <p>21 at any time?</p> <p>22 <b>A. No.</b></p> <p>23 Q. What would you -- do you recall doing anything</p> <p>24 with this list or this e-mail when you received it?</p> <p>25 MR. MURRAY: Objection, asked and answered.</p>	<p style="text-align: right;">89</p> <p>1 Q. (BY MR. FONTECILLA) And if they weren't</p> <p>2 certified, other than not sourcing from them, were there</p> <p>3 any other effects from a quality assurance perspective?</p> <p>4 <b>A. No.</b></p> <p>5 Q. Would it be fair -- and would you have any</p> <p>6 insight or input into whether a noncertified supplier</p> <p>7 could bid on a potential egg purchase from Safeway?</p> <p>8 <b>A. No. I'm not sure what the sourcing</b></p> <p>9 <b>requirements would have been on that.</b></p> <p>10 Q. And from time to time, as quality assurance</p> <p>11 manager, would the purchasing group or sourcing group</p> <p>12 come to you and say, We've got a bid from a particular</p> <p>13 supplier, can you check to see if they're certified?</p> <p>14 <b>A. They would have checked to make sure they were</b></p> <p>15 <b>certified before they submitted a request for proposal.</b></p> <p>16 Q. So the sourcing group would only submit a</p> <p>17 request for proposal to companies that your group had --</p> <p>18 <b>A. No. No, they would -- they would -- part of</b></p> <p>19 <b>the stipulation for a request for proposal would have</b></p> <p>20 <b>included the specification which would have had that in</b></p> <p>21 <b>there. And so if a vendor could not -- was not</b></p> <p>22 <b>certified or was not willing to be certified, they would</b></p> <p>23 <b>not have ever...</b></p> <p>24 Q. And would that have been the case back in 2002</p> <p>25 at the time that you were exchanging these e-mails with</p>

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24 (Pages 90 to 93)

<p style="text-align: right;">90</p> <p>1 Mr. Gregory?</p> <p>2 <b>A. I'm not sure what it was at that time, how it</b></p> <p>3 <b>was.</b></p> <p>4 Q. And do you recall any request for proposal, or</p> <p>5 solicitation of bids, or other potential purchases by</p> <p>6 Safeway from egg vendors involving a check or a</p> <p>7 verification of the company's certification?</p> <p>8 <b>A. At that time, no.</b></p> <p>9 Q. At this time in 2002, do you recall there being</p> <p>10 any issues or concerns about egg vendors signing up for</p> <p>11 UEP and later withdrawing from compliance with the</p> <p>12 UEP guidelines?</p> <p>13 <b>A. No.</b></p> <p>14 Q. If you look at Exhibit 2, the e-mail that</p> <p>15 Mr. Gregory responds -- or in your e-mail, halfway down</p> <p>16 the page, do you see where it says, "My concern is that</p> <p>17 some operations may sign up and then withdraw"?</p> <p>18 <b>A. Yes, I see that.</b></p> <p>19 Q. Does that refresh your recollection about</p> <p>20 whether you or anyone else in your group had concerns</p> <p>21 about egg suppliers signing up to be certified by UEP</p> <p>22 and then later not being certified?</p> <p>23 <b>A. No, it doesn't. Sorry.</b></p> <p>24 Q. Reading this today, what do you think you meant</p> <p>25 when you wrote that?</p>	<p style="text-align: right;">92</p> <p>1 Q. And at this time would the audit and</p> <p>2 certification have included some kind of way to verify</p> <p>3 that the cage space requirements at a particular</p> <p>4 facility were meeting the UEP guidelines'</p> <p>5 specifications?</p> <p>6 <b>A. It would have been the UEP certificate that</b></p> <p>7 <b>would have come from them.</b></p> <p>8 Q. So at this time you were relying on companies</p> <p>9 to provide you with the UEP certificate?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. And has -- was that the case from 2002 until</p> <p>12 the time that you left in 2009?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. And is it your understanding that the UEP</p> <p>15 certificate could only be obtained if the companies were</p> <p>16 UEP members?</p> <p>17 <b>A. I didn't know that. Again, we had the</b></p> <p>18 <b>requirement that, if somebody who was not a UEP member</b></p> <p>19 <b>wanted to comply with those, then they could get a</b></p> <p>20 <b>third-party audit and provide us with that.</b></p> <p>21 Q. And did any such suppliers do that at any time</p> <p>22 at your --</p> <p>23 <b>A. No.</b></p> <p>24 Q. -- time at Safeway?</p> <p>25 And if I told you that the UEP guidelines</p>
<p style="text-align: right;">91</p> <p>1 MR. MURRAY: Objection to the form of the</p> <p>2 question, calls for speculation.</p> <p>3 <b>A. I honestly don't recall this at this point.</b></p> <p>4 Q. (BY MR. FONTECILLA) I understand that you</p> <p>5 don't recall it, but given that this is an e-mail that</p> <p>6 you wrote --</p> <p>7 <b>A. No.</b></p> <p>8 Q. -- I think you would probably be the best</p> <p>9 person to interpret it. And my question is just:</p> <p>10 Reading it today, what do you think you would have meant</p> <p>11 by that?</p> <p>12 MR. MURRAY: Objection, asked and answered,</p> <p>13 calls for speculation.</p> <p>14 <b>A. No. To the best of my recollection or</b></p> <p>15 <b>knowledge, I was probably concerned that -- we wanted to</b></p> <p>16 <b>make sure that any vendors we had could not sign up for</b></p> <p>17 <b>auto insurance, get their license, and then drop it;</b></p> <p>18 <b>basically, that this was an in-and-out type where they</b></p> <p>19 <b>could temporarily get approval, get certified by Safeway</b></p> <p>20 <b>as a supplier, and then withdraw from it.</b></p> <p>21 Q. (BY MR. FONTECILLA) And what steps did the</p> <p>22 quality assurance group have in place to prevent that</p> <p>23 from happening?</p> <p>24 <b>A. We required yearly renewals for their audits</b></p> <p>25 <b>and certifications.</b></p>	<p style="text-align: right;">93</p> <p>1 required a supplier to be a UEP member in order to</p> <p>2 qualify for their certificate, would that explain why no</p> <p>3 nonmembers ever came to you and asked to be a supplier</p> <p>4 to Safeway?</p> <p>5 MR. MURRAY: Objection to the form of the</p> <p>6 question, calls for speculation.</p> <p>7 <b>A. No. That wouldn't explain it because we</b></p> <p>8 <b>weren't requiring every -- if there was a non-UEP member</b></p> <p>9 <b>who wanted to supply us, they could have a third-party</b></p> <p>10 <b>audit, and that audit finding would have sufficed to</b></p> <p>11 <b>meet our requirements. They didn't have to have the UEP</b></p> <p>12 <b>certificate. That was simply the easiest way we had.</b></p> <p>13 <b>If another party had wanted to, they could have had a</b></p> <p>14 <b>third party use the UEP guidelines, certify, and</b></p> <p>15 <b>provide us with that audit.</b></p> <p>16 Q. (BY MR. FONTECILLA) And that would have</p> <p>17 included a third party doing an audit, and confirmation</p> <p>18 that the cage space requirements at a particular</p> <p>19 facility of a non-UEP member were complying with the</p> <p>20 cage space requirements in the UEP --</p> <p>21 <b>A. All -- all of --</b></p> <p>22 Q. -- animal husbandry guidelines?</p> <p>23 <b>A. -- all of the requirements, the ammonia levels,</b></p> <p>24 <b>all of the requirements in...</b></p> <p>25 Q. And that was the case from 2002 through 2009?</p>

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<p style="text-align: right;">94</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. And do you know if that was the case after you</p> <p>3 left Safeway?</p> <p>4 <b>A. No.</b></p> <p>5 Q. Do you recall at any time Safeway supporting</p> <p>6 the elimination of the UEP animal care certified</p> <p>7 program?</p> <p>8 <b>A. No.</b></p> <p>9 Q. Did you, or anyone that you know at Safeway,</p> <p>10 ever voice any support for the elimination of the UEP</p> <p>11 animal care certified program?</p> <p>12 <b>A. No.</b></p> <p>13 Q. Did anyone -- did you and your group support</p> <p>14 the preservation of the UEP animal care certified</p> <p>15 program?</p> <p>16 MR. MURRAY: Object to the form of the</p> <p>17 question.</p> <p>18 <b>A. I wouldn't say "support." It was just</b></p> <p>19 <b>generally accepted and relatively insignificant, as --</b></p> <p>20 <b>as overall topics we were dealing with. It was in place</b></p> <p>21 <b>and it was functioning.</b></p> <p>22 Q. (BY MR. FONTECILLA) Sure. But you -- how can</p> <p>23 you describe it now as insignificant when you just</p> <p>24 testified that the certified program was a requirement</p> <p>25 that you required of your suppliers, that the</p>	<p style="text-align: right;">96</p> <p>1 <b>A. I would say, in maintaining it, we had found</b></p> <p>2 <b>something that was functional and met our needs.</b></p> <p>3 Q. (BY MR. FONTECILLA) And at any time after you</p> <p>4 adopted the program or used the program -- strike that.</p> <p>5 At any time after you started using the</p> <p>6 program that involved the UEP guidelines, did you find</p> <p>7 anything that was more functional or that more</p> <p>8 effectively met your needs?</p> <p>9 <b>A. No.</b></p> <p>10 Q. So would you say that the UEP guidelines,</p> <p>11 throughout your time at Safeway, was the best program</p> <p>12 available for Safeway to use in connection with its egg</p> <p>13 business?</p> <p>14 MR. MURRAY: Objection to the form of the</p> <p>15 question, lack of foundation. And he's not here on</p> <p>16 behalf of Safeway.</p> <p>17 <b>A. From my standpoint, I can't really say that</b></p> <p>18 <b>because once it was in place, we did not aggressively</b></p> <p>19 <b>look to see what was out in the industry. We found that</b></p> <p>20 <b>it was acceptable, but we didn't continue to monitor any</b></p> <p>21 <b>special programs or aggressively pursue any other course</b></p> <p>22 <b>of looking at animal rights issues for egg layers, so...</b></p> <p>23 Q. (BY MR. FONTECILLA) At any point in time, did</p> <p>24 anyone come to you and ask you to take a look at the</p> <p>25 UEP guidelines or some alternative program to the</p>
<p style="text-align: right;">95</p> <p>1 certificate that UEP was able to provide, rather than a</p> <p>2 third-party certificate, was the easiest way? Do you</p> <p>3 want to clarify your answer?</p> <p>4 <b>A. Let --</b></p> <p>5 MR. MURRAY: Objection. It's</p> <p>6 argumentative.</p> <p>7 <b>A. Okay. I'll clarify. When I said</b></p> <p>8 <b>"insignificant," I didn't mean insignificant. It was</b></p> <p>9 <b>not a hot topic. It was in place, and it appeared to be</b></p> <p>10 <b>functioning. The animal rights groups seemed to be</b></p> <p>11 <b>accepting of it.</b></p> <p>12 <b>We had a lot of other issues. The egg --</b></p> <p>13 <b>the egg part of our business was maybe 1 to 2 percent of</b></p> <p>14 <b>our total responsibilities, and, sadly, the squeaky</b></p> <p>15 <b>wheel gets the grease. So we were more rapidly dealing</b></p> <p>16 <b>with pet food issues, Chinese import issues, and so</b></p> <p>17 <b>forth. So once it was in place, we weren't hearing</b></p> <p>18 <b>anything good or bad from it, it -- it was pretty much</b></p> <p>19 <b>forgotten.</b></p> <p>20 Q. (BY MR. FONTECILLA) But would it be fair to</p> <p>21 say that by maintaining it, it's indicative that the QA</p> <p>22 group was supportive or had authorized its use from 2002</p> <p>23 to the time that you left?</p> <p>24 MR. MURRAY: Object to the form of the</p> <p>25 question. It's inconsistent with his prior testimony.</p>	<p style="text-align: right;">97</p> <p>1 UEP guidelines?</p> <p>2 <b>A. Not to my recollection, no.</b></p> <p>3 Q. And why do you think that that was?</p> <p>4 MR. MURRAY: Objection, calls for</p> <p>5 speculation.</p> <p>6 <b>A. It would be conjecture, but it was simply that</b></p> <p>7 <b>it was meeting the minimum requirements, and, you know,</b></p> <p>8 <b>there were -- the animal right groups hadn't -- there --</b></p> <p>9 <b>there was not a lot of emphasis. We were branching into</b></p> <p>10 <b>other areas, such as cage free, that were more</b></p> <p>11 <b>acceptable to consumers.</b></p> <p>12 Q. (BY MR. FONTECILLA) Does reviewing these two</p> <p>13 e-mails from 2002, and talking about it, refresh your</p> <p>14 recollection about when the QA group first started using</p> <p>15 the UEP guidelines in connection with its functions?</p> <p>16 MR. MURRAY: Objection, asked and answered.</p> <p>17 <b>A. It doesn't refresh, but it certainly makes me</b></p> <p>18 <b>think my timeline is earlier than what I'd earlier</b></p> <p>19 <b>thought.</b></p> <p>20 Q. (BY MR. FONTECILLA) And would it be fair to</p> <p>21 say that the QA group had been using the UEP guidelines</p> <p>22 as early as December 2002, if not earlier?</p> <p>23 MR. MURRAY: Objection, compound.</p> <p>24 <b>A. I think that certainly by December 2002 we were</b></p> <p>25 <b>using the guidelines.</b></p>

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<p style="text-align: right;">98</p> <p>1 Q. (BY MR. FONTECILLA) Are you familiar with the</p> <p>2 Food Marketing Institute or what's commonly known as</p> <p>3 FMI?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. And how are you familiar with FMI?</p> <p>6 <b>A. I just know it was an industry organization</b></p> <p>7 <b>that we participated in, and we would often receive</b></p> <p>8 <b>white papers from them regarding labeling issues, short</b></p> <p>9 <b>courses and so forth, and they did purchase a quality</b></p> <p>10 <b>assurance inspection group called Safe Quality Food,</b></p> <p>11 <b>SQF, which I've had dealings with.</b></p> <p>12 Q. And in the time period of 1999 to about 2002,</p> <p>13 do you recall having any involvement or interactions or</p> <p>14 discussions related to FMI?</p> <p>15 <b>A. I know that I would have probably been involved</b></p> <p>16 <b>in reading some white papers and maybe talking to them</b></p> <p>17 <b>about food labeling regulations.</b></p> <p>18 Q. Okay. Do you recall you or anyone on your team</p> <p>19 ever participating in FMI discussions about an industry</p> <p>20 effort to collaboratively use the UEP guidelines?</p> <p>21 <b>A. No. No.</b></p> <p>22 Q. Do you recall anyone reporting back from an FMI</p> <p>23 meeting where the UEP guidelines was discussed?</p> <p>24 <b>A. No, I don't.</b></p> <p>25 Q. Are you aware of any involvement by anyone at</p>	<p style="text-align: right;">100</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. And as a result of the concerns raised by those</p> <p>3 animal welfare -- or animal rights groups, excuse me, do</p> <p>4 you recall what Safeway or your group did as a response?</p> <p>5 MR. MURRAY: Objection, asked and answered.</p> <p>6 <b>A. The PETA action that first caught our attention</b></p> <p>7 <b>was their action against McDonald's. And as a result of</b></p> <p>8 <b>that, we began looking at animal rights, animal</b></p> <p>9 <b>husbandry issues. So it -- it was kind of us trying to</b></p> <p>10 <b>be proactive and just to educate ourselves. We do that</b></p> <p>11 <b>with all types of industry -- or did that with all types</b></p> <p>12 <b>of industry concerns.</b></p> <p>13 Q. (BY MR. FONTECILLA) Do you recall Safeway, in</p> <p>14 about 2000 and 2001, responding to PETA's concerns</p> <p>15 regarding animal welfare for egg production, resulting</p> <p>16 in Safeway using the UEP guidelines?</p> <p>17 <b>A. Yes. I remember -- not specifically linked to</b></p> <p>18 <b>that timeline, but I remember us responding, or I</b></p> <p>19 <b>remember a conversation with Brian in which he mentioned</b></p> <p>20 <b>that they were going to do that.</b></p> <p>21 Q. Do you recall Brian Dowling exchanging letters</p> <p>22 with members of PETA?</p> <p>23 MR. MURRAY: Objection, lack of foundation.</p> <p>24 <b>A. No. I don't remember specifically letters with</b></p> <p>25 <b>them.</b></p>
<p style="text-align: right;">99</p> <p>1 Safeway related to FMI and the UEP guidelines?</p> <p>2 <b>A. No.</b></p> <p>3 Q. We've talked about the animal rights groups and</p> <p>4 some concerns that they had related to animal welfare in</p> <p>5 the egg producer industry. Do you recall that?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. And would those animal rights organizations</p> <p>8 include PETA and HSUS?</p> <p>9 <b>A. PETA is one I'm familiar. HUS -- HSUS, I --</b></p> <p>10 Q. Are there any others, other than PETA that</p> <p>11 you're familiar --</p> <p>12 <b>A. -- I'm not familiar with them, just PETA.</b></p> <p>13 Q. And as a result of the concerns raised by</p> <p>14 PETA -- at what time do you recall PETA first raising</p> <p>15 animal welfare concerns?</p> <p>16 <b>A. Well, I remembered it being 2003 or so, but it</b></p> <p>17 <b>evidently was much earlier.</b></p> <p>18 Q. And that's because you're pointing to Exhibit 2</p> <p>19 or --</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. -- Exhibit 3, the e-mails from 2002?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. And reading those would lead you to believe or</p> <p>24 testify today that it's likely that those concerns were</p> <p>25 raised earlier?</p>	<p style="text-align: right;">101</p> <p>1 Q. (BY MR. FONTECILLA) Do you recall anyone at</p> <p>2 Safeway promising to PETA that Safeway would use the</p> <p>3 UEP guidelines?</p> <p>4 <b>A. Not knowledge of us directly telling them that,</b></p> <p>5 <b>no.</b></p> <p>6 Q. Are you aware generally that Safeway was using</p> <p>7 the UEP guidelines as a result of the pressure from</p> <p>8 PETA?</p> <p>9 MR. MURRAY: Objection to the form of the</p> <p>10 question, and lack of foundation.</p> <p>11 <b>A. Yeah. It was my understanding that we were</b></p> <p>12 <b>leaning towards UEP as an acceptable course of action</b></p> <p>13 <b>with PETA.</b></p> <p>14 Q. (BY MR. FONTECILLA) And as Exhibit 2 and</p> <p>15 Exhibit 3 show, and as you testified, by 2002 Safeway</p> <p>16 was using the UEP guidelines?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. Are you aware of efforts by five -- the five</p> <p>19 major supermarket companies in 2000, 2001, including</p> <p>20 Safeway, asking FMI to develop a voluntary policy to</p> <p>21 address animal welfare that the entire supermarket</p> <p>22 industry could embrace?</p> <p>23 <b>A. No, I was not.</b></p> <p>24 Q. Do you recall any discussions about Safeway</p> <p>25 supporting an industry approach to animal welfare and to</p>



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<p style="text-align: right;">102</p> <p>1 egg production?</p> <p>2 <b>A. No, I don't recall that.</b></p> <p>3 Q. And do you recall any discussions about the</p> <p>4 efficiency of participating in or adopting an</p> <p>5 industry-wide approach to egg production?</p> <p>6 <b>A. No.</b></p> <p>7 Q. Well, were you aware that in 2000 FMI formed a</p> <p>8 member-company advisory committee involving Safeway, to</p> <p>9 study the potential use of the UEP guidelines?</p> <p>10 <b>A. Not that I recall, no.</b></p> <p>11 Q. Do you recall ever facing pressure from</p> <p>12 consumers of Safeway's eggs and egg products to use a</p> <p>13 more humane animal welfare program with its egg</p> <p>14 suppliers?</p> <p>15 <b>A. Do I recall? No.</b></p> <p>16 Q. Going back to your testimony earlier, when</p> <p>17 Safeway first started evaluating potential animal</p> <p>18 welfare programs for its egg suppliers, do you recall</p> <p>19 whether you or anyone at the QA group talked to animal</p> <p>20 welfare experts?</p> <p>21 <b>A. I don't know if anyone else at Safeway did. We</b></p> <p>22 <b>did not, no, in my -- I did not, no.</b></p> <p>23 Q. Did you or anyone else involved in the</p> <p>24 evaluation of potential programs, including the</p> <p>25 UEP guidelines, in or before 2002 pay for any research</p>	<p style="text-align: right;">104</p> <p>1 <b>been earlier than my 2003, 2004 guesses before.</b></p> <p>2 Q. (BY MR. FONTECILLA) Okay. Would it be so</p> <p>3 early that you were still a QA auditor?</p> <p>4 <b>A. I really don't know.</b></p> <p>5 Q. Who else was involved in the efforts to</p> <p>6 evaluate other animal husbandry programs for egg</p> <p>7 production?</p> <p>8 <b>A. The entire QA team would have -- would have</b></p> <p>9 <b>been involved at some -- some level.</b></p> <p>10 Q. And that would have been the QA team sometime</p> <p>11 between 2000 and 2002?</p> <p>12 <b>A. Yes. I'm assuming that time.</b></p> <p>13 Q. And who would have been on that team?</p> <p>14 <b>A. Mary Camm, Mike Talbott, Mike Ireland, Brian</b></p> <p>15 <b>Fournier, Sally Sudiagal, Carla Leigh, Catherine</b></p> <p>16 <b>Laarhoven, Naomi Lozano. I think that's all. I may...</b></p> <p>17 Q. Were you and QA team aware, at the time of that</p> <p>18 evaluation in the early 2000s, that Burger King was</p> <p>19 considering or had adopted a varying cage density</p> <p>20 requirement different from the UEP guidelines or similar</p> <p>21 to?</p> <p>22 MR. MURRAY: Object to the form of the</p> <p>23 question.</p> <p>24 <b>A. No. I -- that -- I don't right now. I may</b></p> <p>25 <b>have known at one time, but right now that doesn't</b></p>
<p style="text-align: right;">103</p> <p>1 to be conducted about animal welfare programs?</p> <p>2 <b>A. No.</b></p> <p>3 Q. As part of those evaluation efforts, did you</p> <p>4 study any reports or white papers from FMI or other</p> <p>5 trade or industry groups?</p> <p>6 <b>A. I remember reading some poultry magazines,</b></p> <p>7 <b>poultry handbooks on that. I don't know -- remember</b></p> <p>8 <b>anything specific.</b></p> <p>9 Q. Do you recall soliciting any information from</p> <p>10 UEP directly about the UEP guidelines, other than your</p> <p>11 previous recollection about asking for a copy of the</p> <p>12 draft of UEP animal husbandry guidelines from</p> <p>13 Mr. Gregory?</p> <p>14 <b>A. Nothing specific. There may have been some,</b></p> <p>15 <b>but I don't recall anything.</b></p> <p>16 Q. Does reviewing Exhibit 2 and Exhibit 3 refresh</p> <p>17 your memory about the timing of when you would have</p> <p>18 asked Mr. Gregory for a copy of the animal husbandry</p> <p>19 guidelines?</p> <p>20 <b>A. Yes. It would have been much earlier.</b></p> <p>21 Q. It would be fair to say it would have been as</p> <p>22 early as 2000 or 1999?</p> <p>23 MR. MURRAY: Objection, calls for</p> <p>24 speculation.</p> <p>25 <b>A. I'm not sure how much earlier. It would have</b></p>	<p style="text-align: right;">105</p> <p>1 <b>make -- doesn't ring a bell.</b></p> <p>2 Q. (BY MR. FONTECILLA) Were you aware at the time</p> <p>3 of that evaluation, when you considering using the</p> <p>4 UEP guidelines, that there were varying debeaking</p> <p>5 standards other than the ones in the UEP guidelines?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. And what was your understanding of those other</p> <p>8 debeaking standards?</p> <p>9 <b>A. Most of them debeaked later, but I don't</b></p> <p>10 <b>remember specifics on everything. I just remember there</b></p> <p>11 <b>was some single debeaking, some double debeaking.</b></p> <p>12 Q. Is debeaking also more probably sometimes</p> <p>13 referred to as beak trimming?</p> <p>14 <b>A. I believe so, yes.</b></p> <p>15 Q. And are you aware of how the UEP guidelines'</p> <p>16 beak trimming requirements compared to those of some of</p> <p>17 the other programs that you considered?</p> <p>18 <b>A. No, I don't recall.</b></p> <p>19 Q. And do you recall considering the other -- beak</p> <p>20 trimming requirements of other programs in the</p> <p>21 evaluation?</p> <p>22 <b>A. I remember discussing them, but not really</b></p> <p>23 <b>evaluating, so...</b></p> <p>24 Q. Were you aware at the time that there were</p> <p>25 various forced molting standards available other than</p>

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<p style="text-align: right;">106</p> <p>1 the UEP guidelines?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. And what was your understanding of what those</p> <p>4 other forced molting standards were?</p> <p>5 <b>A. I don't recall specifically. Some -- I</b></p> <p>6 <b>remember later molting, earlier molting.</b></p> <p>7 Q. Do you --</p> <p>8 <b>A. But nothing specific.</b></p> <p>9 Q. Do you recall whether or how that affected the</p> <p>10 decision of Safeway to proceed with the UEP guidelines?</p> <p>11 <b>A. I don't recall any -- any effect that it would</b></p> <p>12 <b>have had.</b></p> <p>13 Q. Were you aware at the time of any actions taken</p> <p>14 by the international regulators regarding animal welfare</p> <p>15 related to egg production?</p> <p>16 <b>A. I vaguely remember some of the European</b></p> <p>17 <b>discussions.</b></p> <p>18 Q. And by European discussions, do you mean that</p> <p>19 during the evaluation of whether to use the</p> <p>20 UEP guidelines, you and your team collected information</p> <p>21 about what regulators were doing in Europe?</p> <p>22 <b>A. Not so much collected it. We were just aware</b></p> <p>23 <b>that they had, as I recall, much more stringent</b></p> <p>24 <b>regulations than the United States.</b></p> <p>25 Q. And how did that affect or influence the</p>	<p style="text-align: right;">108</p> <p>1 complying with the UEP guidelines rather than just some</p> <p>2 of them?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. And how did that affect or influence you or the</p> <p>5 QA's team decision to proceed with using the -- sorry,</p> <p>6 the UEP guidelines?</p> <p>7 <b>A. I don't think it affected us either way. It</b></p> <p>8 <b>was simply something we thought would be nice to have.</b></p> <p>9 Q. Did you or the QA team ever consider using an</p> <p>10 animal husbandry program that allowed some flocks to be</p> <p>11 complying with animal welfare standards and other flocks</p> <p>12 to not be complying with it?</p> <p>13 MR. MURRAY: Objection, asked and answered.</p> <p>14 <b>A. Not that I recall.</b></p> <p>15 Q. (BY MR. FONTECILLA) Are you familiar with the</p> <p>16 term "backfilling"?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. What do you understand that term to mean?</p> <p>19 <b>A. Simply as, if chickens died, then -- in a</b></p> <p>20 <b>cage -- if two chickens died in a cage, and you were in</b></p> <p>21 <b>compliance with space before, that you could put</b></p> <p>22 <b>chickens back into those cages to replace those two and</b></p> <p>23 <b>still maintain the space requirements.</b></p> <p>24 Q. And how do you -- do you recall backfilling</p> <p>25 being discussed as part of the evaluation or</p>
<p style="text-align: right;">107</p> <p>1 decision by Safeway to proceed with the UEP guidelines?</p> <p>2 <b>A. It really had no effect whatsoever. We regard</b></p> <p>3 <b>it as a European community issue. Did not affect us.</b></p> <p>4 Q. Are you aware -- or were you aware at the time</p> <p>5 of the evaluation on whether to use the UEP guidelines</p> <p>6 of animal welfare standards that did not require</p> <p>7 100 percent compliance across all egg suppliers'</p> <p>8 facilities?</p> <p>9 <b>A. I'm -- I'm not aware of that, no.</b></p> <p>10 Q. Do you recall you or the QA team considering or</p> <p>11 otherwise taking into consideration the UEP guidelines'</p> <p>12 requirement that all of an egg supplier's facilities be</p> <p>13 complying with the guidelines in order to be UEP</p> <p>14 certified?</p> <p>15 MR. MURRAY: Object to the form of the</p> <p>16 question.</p> <p>17 <b>A. That was discussed, and we felt it would be</b></p> <p>18 <b>beneficial, simply from a regulatory -- from us</b></p> <p>19 <b>regulating it, that it would make it easier for any</b></p> <p>20 <b>vendor to have all their facilities. That way, we</b></p> <p>21 <b>didn't have to worry about cross-shipping, of</b></p> <p>22 <b>intershipping from a plant that's not approved.</b></p> <p>23 Q. (BY MR. FONTECILLA) When you said "for any</p> <p>24 vendor to have all their facilities," did you mean that</p> <p>25 it would be easier if a vendor had all its facilities</p>	<p style="text-align: right;">109</p> <p>1 consideration of the UEP guidelines?</p> <p>2 <b>A. I just remember the term. I don't think we</b></p> <p>3 <b>ever discussed backfilling.</b></p> <p>4 Q. What would you say was the most important</p> <p>5 factor in the QA team's evaluation and ultimate decision</p> <p>6 to use the UEP guidelines?</p> <p>7 <b>A. The balance of having some effective changes</b></p> <p>8 <b>and industry acceptance of it.</b></p> <p>9 Q. Did the QA team see it as a benefit of the</p> <p>10 UEP guidelines that it promoted a uniform level of</p> <p>11 treatment of egg laying hens?</p> <p>12 MR. MURRAY: Object to the form of the</p> <p>13 question.</p> <p>14 <b>A. Could you repeat that? I'm sorry, I missed --</b></p> <p>15 Q. (BY MR. FONTECILLA) Sure.</p> <p>16 <b>A. -- the early part.</b></p> <p>17 Q. Was one of the benefits that the QA team saw in</p> <p>18 the UEP guidelines that it promoted a uniform level of</p> <p>19 treatment of egg laying hens?</p> <p>20 MR. MURRAY: Object to the form of the</p> <p>21 question.</p> <p>22 <b>A. Not so much uniform, as some improvements and</b></p> <p>23 <b>establish guidelines -- minimum guidelines for</b></p> <p>24 <b>improvements.</b></p> <p>25 Q. (BY MR. FONTECILLA) But by uniform I mean the</p>



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<p style="text-align: right;">110</p> <p>1 same, so it has -- you know, the guidelines apply the</p> <p>2 same to different suppliers. It wouldn't apply</p> <p>3 differently to one supplier or other --</p> <p>4 <b>A. Well, it --</b></p> <p>5 MR. MURRAY: Objection to the form of the</p> <p>6 question, asked and answered, and argumentative.</p> <p>7 <b>A. It -- it established a minimum guideline --</b></p> <p>8 Q. (BY MR. FONTECILLA) And --</p> <p>9 <b>A. -- which was acceptable, and that -- that was</b></p> <p>10 <b>what we were looking for. I mean, vendors could --</b></p> <p>11 <b>could provide more space than required, so the minimum</b></p> <p>12 <b>guideline.</b></p> <p>13 Q. Did your QA team also see it as a benefit of</p> <p>14 the UEP guidelines that they had proven effective to</p> <p>15 that date?</p> <p>16 MR. MURRAY: Object to the form of the</p> <p>17 question, lack of foundation.</p> <p>18 <b>A. I'm not sure if they had actually proven</b></p> <p>19 <b>effective, but they had gotten industry and, to a</b></p> <p>20 <b>certain extent, the animal rights groups' acceptance,</b></p> <p>21 <b>so...</b></p> <p>22 Q. (BY MR. FONTECILLA) And what was your</p> <p>23 understanding from that acceptance about -- at the time</p> <p>24 about how effective or not the UEP guidelines were?</p> <p>25 <b>A. I'm not sure what the definition of effective</b></p>	<p style="text-align: right;">112</p> <p>1 <b>saw it as.</b></p> <p>2 Q. Did you see it as a benefit of the</p> <p>3 UEP guidelines that it -- that there was confidence in</p> <p>4 the scientific underpinning of the technical aspects of</p> <p>5 the UEP guidelines?</p> <p>6 MR. MURRAY: Objection, lack of foundation.</p> <p>7 <b>A. As we reviewed it, and with our limited</b></p> <p>8 <b>technical expertise as compared to the land grant</b></p> <p>9 <b>colleges, we felt that there was good scientific</b></p> <p>10 <b>evidence given for the reward on the -- you know, the</b></p> <p>11 <b>improvement that was seen.</b></p> <p>12 Q. (BY MR. FONTECILLA) Did you have an</p> <p>13 understanding of how -- how Safeway's scientific</p> <p>14 research compared to the scientific research underlying</p> <p>15 the UEP guidelines?</p> <p>16 <b>A. Well, Safeway, our scientific -- we -- we did</b></p> <p>17 <b>not really have scientific research. We were looking at</b></p> <p>18 <b>it from a logic, and looking at what the -- the science</b></p> <p>19 <b>provided by the groups evaluating it was putting out.</b></p> <p>20 <b>So it was a minimal evaluation from a scientific</b></p> <p>21 <b>standpoint.</b></p> <p>22 Q. So you were relying on the scientific research</p> <p>23 of UEP?</p> <p>24 <b>A. UEP --</b></p> <p>25 MR. MURRAY: Object to the form of the</p>
<p style="text-align: right;">111</p> <p>1 <b>is.</b></p> <p>2 Q. However you would use it.</p> <p>3 MR. MURRAY: Objection, vague.</p> <p>4 <b>A. Well, I guess if you're really concerned about</b></p> <p>5 <b>animal rights, then the chickens would have plenty of</b></p> <p>6 <b>room to -- you know, you're gearing more towards free</b></p> <p>7 <b>range and everything. What -- what the UEP guidelines</b></p> <p>8 <b>did was propose conditions that were minimally</b></p> <p>9 <b>acceptable to, you know, the animal rights groups. It</b></p> <p>10 <b>was a step up. You know, the animal rights group</b></p> <p>11 <b>want -- would want total free range for everything, but</b></p> <p>12 <b>it was kind of a compromise, and a quality compromise</b></p> <p>13 <b>along the line.</b></p> <p>14 Q. (BY MR. FONTECILLA) And when you say "step</p> <p>15 up," you mean a step up from no minimum cage space</p> <p>16 requirements?</p> <p>17 <b>A. Well -- yeah, going from battery cage to free</b></p> <p>18 <b>range would -- would have been, I guess, the ultimate</b></p> <p>19 <b>step. But -- but what we were looking for was</b></p> <p>20 <b>incremental improvement, and I think that's what PETA</b></p> <p>21 <b>was looking for and perhaps, hopefully, the industry was</b></p> <p>22 <b>looking for.</b></p> <p>23 Q. And the UEP guidelines provided that</p> <p>24 incremental step?</p> <p>25 <b>A. The minimum acceptable incremental, is what we</b></p>	<p style="text-align: right;">113</p> <p>1 question, misstates his testimony.</p> <p>2 <b>A. We would have reviewed UEP's, but we were also</b></p> <p>3 <b>looking at articles from -- you know, the pros and cons.</b></p> <p>4 <b>I'm sure there were some PETA articles that came out,</b></p> <p>5 <b>some people from PETA. And we looked at all of those</b></p> <p>6 <b>and thought what we wound up with is a good compromise</b></p> <p>7 <b>for where we want to be right now. We made an</b></p> <p>8 <b>improvement from here to here.</b></p> <p>9 Q. (BY MR. FONTECILLA) UEP didn't come to Safeway</p> <p>10 or to you -- well, let me rephrase.</p> <p>11 UEP didn't come to you and ask you to</p> <p>12 require all your suppliers to comply with the</p> <p>13 UEP guidelines, right?</p> <p>14 <b>A. Correct.</b></p> <p>15 Q. It was Safeway -- Safeway's initiative to come</p> <p>16 up with some kind of minimum standard to appease the</p> <p>17 PETA group?</p> <p>18 MR. MURRAY: Object to the form of the</p> <p>19 question.</p> <p>20 <b>A. I think it was a minimum standard, but I'm not</b></p> <p>21 <b>sure that, you know, appeasing the PETA group is</b></p> <p>22 <b>100 percent of the reason for doing it, but -- I want to</b></p> <p>23 <b>give us some altruism, but basically, we were looking</b></p> <p>24 <b>for an acceptable program.</b></p> <p>25 Q. (BY MR. FONTECILLA) And you said that the QA</p>

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<p style="text-align: right;">114</p> <p>1 team also considered that other people in the purchasing 2 industry like McDonald's were using or increasing their 3 animal welfare standard for egg producers? 4 <b>A. Correct.</b> 5 Q. Did you also consider what other grocery retail 6 store chains were doing? 7 <b>A. I'm not sure we were aware or could find out</b> 8 <b>what they were doing.</b> 9 Q. And did your group also consider that wide 10 acceptance in the industry of the UEP guidelines meant 11 that more people in this industry would have the same 12 cost structure for egg production? 13 MR. MURRAY: Object to the form of the 14 question. 15 <b>A. We, again, weren't concerned with cost</b> 16 <b>structure. We were looking at safety, quality, and, you</b> 17 <b>know, trying to implement a basic animal rights program.</b> 18 MR. FONTECILLA: Okay. I think we're going 19 to have to go off the record. 20 MR. MURRAY: Take a break. 21 (Recess 12:49 p.m. to 1:45 p.m.) 22 MR. MURRAY: You going to do anything about 23 the phone? 24 MR. FONTECILLA: Does anyone on the phone 25 want to make an appearance?</p>	<p style="text-align: right;">116</p> <p>1 what would happen to the amount of eggs being supplied 2 by a particular facility or a particular vendor as a 3 result of adopting the UEP guidelines? 4 <b>A. Not really. We thought they might build more</b> 5 <b>houses or -- you know, if there was a shortage, but it</b> 6 <b>would be simply supply and demand.</b> 7 Q. And what do you mean by supply and demand? 8 <b>A. That as demand went up, they would build more</b> 9 <b>houses, there would be more chickens put online, so...</b> 10 Q. And were you ever made aware that a facility or 11 a particular vendor of Safeway has expanded its -- built 12 more houses, as you say? 13 <b>A. No, I'm not aware of any.</b> 14 Q. Did you ever ask? 15 <b>A. There -- there would have been some that were</b> 16 <b>built for the free range, the brown eggs that we were</b> 17 <b>bringing on, organic eggs, because it was -- it was</b> 18 <b>expanding. So it was just as -- anything that would</b> 19 <b>be -- that would have been built, we would have had to</b> 20 <b>audit that facility before it came on.</b> 21 Q. Are you saying that anytime any additional 22 houses of caged layers would have been built, you -- 23 Safeway would have some involvement in auditing that 24 before they were built? 25 <b>A. No. No. Before they -- before they started</b></p>
<p style="text-align: right;">115</p> <p>1 MS. SANDIN: Sure, I can do that. It's 2 Jetta Sandin on behalf of Rose Acre Farms. 3 (Discussion off the record.) 4 Q. (BY MR. FONTECILLA) Mr. Lawrence, at any time 5 before deciding to use the UEP guidelines on or before 6 2002, as we saw in the previous exhibits this morning, 7 did you or your team receive or consider any information 8 about the potential economic effects to Safeway or to 9 suppliers of using the UEP guidelines? 10 <b>A. No.</b> 11 Q. Safeway knew, though, that implementing the 12 UEP guidelines would result in less hens per cage, 13 right? 14 MR. MURRAY: Objection to the form of the 15 question. 16 He can answer about himself not company. 17 Q. (BY MR. FONTECILLA) You -- 18 <b>A. Yeah.</b> 19 Q. You knew that implementing the UEP guidelines 20 for a particular supplier or a particular facility would 21 mean at that facility or for that supplier that there 22 would be less hens in the cage, right? 23 <b>A. Yes.</b> 24 Q. And you would agree that -- strike that. 25 And did you have any expectations as to</p>	<p style="text-align: right;">117</p> <p>1 <b>supplying from any facility, we would have inspected</b> 2 <b>that facility, or at least an egg operation.</b> 3 Q. And did you or your QA team at any time inspect 4 a new facility that was built as part of some kind of 5 expansion or addition by a particular vendor? 6 MR. MURRAY: Objection. It's compound. 7 <b>A. I -- I wouldn't have known the reason they</b> 8 <b>built it. We -- we inspected a number of new</b> 9 <b>facilities. I -- I really never knew why they were</b> 10 <b>built. They may have been some we didn't know about, or</b> 11 <b>some they wanted to start using.</b> 12 Q. (BY MR. FONTECILLA) But you -- I guess my 13 question is more simple. But you are aware that there 14 were new facilities built by certain existing suppliers 15 of Safeway? 16 <b>A. Yes, with -- with the cage free birds that</b> 17 <b>were -- the facilities like that, and organic</b> 18 <b>operations.</b> 19 Q. What about as to caged egg laying hens, do you 20 recall any new facilities ever being inspected by you or 21 your team? 22 <b>A. I'm sure we would have known they were</b> 23 <b>specifically new. We would have known they were -- were</b> 24 <b>some facilities they wanted to use that they hadn't</b> 25 <b>previously used.</b></p>

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<p style="text-align: right;">118</p> <p>1 Q. So you don't recall any facilities that you or 2 your team inspected being new or additions, as you 3 described they would have done if demand went up? 4 <b>A. Correct. I wouldn't have known that.</b> 5 Q. After the Safeway QA team decided to start 6 using the UEP guidelines, did it become aware at any 7 time that the UEP guidelines might be causing increased 8 production costs or lower supply by the egg suppliers? 9 <b>A. We wouldn't have known that. And we didn't 10 know what the cost were, so...</b> 11 Q. No one ever informed you or your team of that? 12 <b>A. No. No.</b> 13 Q. Your team was aware, at the time that it 14 decided to start using the UEP guidelines on or before 15 2002, that other animal welfare programs provided for 16 larger cage space allowances than the UEP guidelines, 17 right? 18 <b>A. I don't recall that. We -- there would have 19 been a review, and somebody would have said, This is X 20 per inches. But I don't recall anything about that 21 right now, specifics.</b> 22 Q. And just to be clear, you don't recall there 23 being any animal welfare programs at that time that had 24 a larger cage space requirement than UEP's? 25 <b>A. No. Not specific ones, no.</b></p>	<p style="text-align: right;">120</p> <p>1 Q. And she says, "Just wanted to let you know that 2 the QA group agreed with our recommendation to require 3 all our shell egg producers to have an annual animal 4 welfare audit audited to see that they meet the United 5 Egg Producers animal husbandry guidelines." 6 Do you see that? 7 <b>A. Yes.</b> 8 Q. What do you understand Ms. Camm to be referring 9 to by the recommendations she's referring to? 10 <b>A. Just basically, that we had the program in 11 place that they had to comply to the -- the UEP.</b> 12 Q. This is the program that was in place in the 13 earlier e-mails in 2002 that we saw? 14 <b>A. The program that we're talking about, yes.</b> 15 Q. And it says, "At this point we are only 16 accepting audits from Validus and the USDA or who 17 conduct the same audit for the UEP certification 18 program." 19 Do you see that? 20 <b>A. Uh-huh. Yes.</b> 21 Q. What do you understand the audits to be 22 referring to? 23 <b>A. To the UEP. It was simply the UEP program.</b> 24 Q. And do you understand this to mean that the QA 25 group had a program in place where it accepted audits</p>
<p style="text-align: right;">119</p> <p>1 Q. What about generally that there existed other 2 animal welfare cage space requirements that were larger 3 than UEP's, do you recall that? 4 <b>A. I -- no, I honestly don't remember the 5 specifics of any of them.</b> 6 Q. Were you aware of any communications from 7 Safeway's egg vendors, or potential egg vendors, 8 regarding any plans that one of those vendors might have 9 had to install a new house or build an additional house? 10 <b>A. Not that I'm aware of, no. 11 (Exhibit No. 4 marked.)</b> 12 Q. (BY MR. FONTECILLA) You've been handed what's 13 been marked as Exhibit 4, Mr. Lawrence. Do you 14 recognize this document? 15 <b>A. I -- I don't remember specifics, but it does 16 appear to be an e-mail from Mary to Virginia.</b> 17 Q. And if we start on the second page of the -- of 18 the e-mail, do you see that the initial e-mail is from 19 Mary Camm on January 13th, 2006? 20 <b>A. Yes.</b> 21 Q. And you see it's titled Animal Welfare Audits? 22 <b>A. Uh-huh.</b> 23 Q. And she sends that to Virginia Littlefield, 24 right? 25 <b>A. Yes.</b></p>	<p style="text-align: right;">121</p> <p>1 from third parties that an egg supplier was complying 2 with the UEP certification program? 3 <b>A. Yes. It would have been the UEP audit. Or, as 4 I said, if a non-UEP member had chosen, they would have 5 been using the -- Validus or USDA to conduct the audit.</b> 6 Q. And then in the last sentence it says -- of 7 that paragraph it says, "We have to investigate how we 8 will deal with it in Canada because UEP only covers the 9 U.S." 10 Do you see that? 11 <b>A. Yes.</b> 12 Q. All right. Do you understand -- do you know 13 whether some of Safeway's egg suppliers at this time, or 14 prior to the time of this e-mail, were supplying Safeway 15 with eggs from Canada? 16 MR. MURRAY: Objection to the form of the 17 question. It's misleading. Do you mean to... 18 Q. (BY MR. FONTECILLA) Do you understand my 19 question, Mr. Lawrence? 20 <b>A. I'm -- I'm not 100 percent sure. There was no 21 cross-border supply. We've ever -- we have stores in 22 Canada, and we have an auditor in Canada. What we were 23 looking at here is kind of preemptively thinking that, 24 if we have a program in the United States for animal 25 rights for poultry, that we would probably encounter the</b></p>

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<p style="text-align: right;">122</p> <p>1 <b>same problems in Canada and should be prepared for that.</b></p> <p>2 Q. Do you see in the next paragraph it says, "The</p> <p>3 other issue that our manager wanted to explore was</p> <p>4 coming up with a uniform policy for all Safeway</p> <p>5 suppliers' animal based products on animal welfare and</p> <p>6 treatment"?</p> <p>7 <b>A. Uh-huh.</b></p> <p>8 Q. Do you see that?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. She's referring to you in that sentence, right?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. And she's referring to an effort that you were</p> <p>13 trying to put in place to have other products have a</p> <p>14 similar uniform policy for Safeway suppliers as you had</p> <p>15 in place for your egg suppliers, right?</p> <p>16 <b>A. Yes. We -- we were exploring the possibilities</b></p> <p>17 <b>and what would be required in that, yes.</b></p> <p>18 Q. And so you were using the UEP compliance</p> <p>19 requirement that you had in place as a model for other</p> <p>20 egg -- or animal products, excuse me?</p> <p>21 MR. MURRAY: Objection to the form of the</p> <p>22 question. It assumes facts that haven't been</p> <p>23 established.</p> <p>24 <b>A. We -- we weren't really using it as a model.</b></p> <p>25 <b>We realized that there was going to be a need, and --</b></p>	<p style="text-align: right;">124</p> <p>1 Q. What were her roles and responsibilities at</p> <p>2 this time of this e-mail?</p> <p>3 <b>A. She was a quality assurance auditor for the</b></p> <p>4 <b>Northeast United States and parts of Quebec and</b></p> <p>5 <b>Montreal.</b></p> <p>6 Q. And in the first sentence of her e-mail she</p> <p>7 says, "I attached a draft of a policy that David</p> <p>8 Lawrence, our manager, would like to propose as the</p> <p>9 company policy on assuring animal welfare."</p> <p>10 Is that a fair characterization of what</p> <p>11 she's saying?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. And she attaches the policy. Do you see the</p> <p>14 policy, the attachment behind the blue sheet?</p> <p>15 <b>A. Uh-huh. Yes.</b></p> <p>16 Q. And do you recognize that attachment as being</p> <p>17 the animal welfare policy that you drafted in or about</p> <p>18 January 2006?</p> <p>19 <b>A. Now, it would have been a proposal.</b></p> <p>20 Q. A proposed --</p> <p>21 <b>A. A proposed animal welfare policy.</b></p> <p>22 Q. -- proposed policy that you drafted --</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. -- in 2006, right?</p> <p>25 <b>A. Yes.</b></p>
<p style="text-align: right;">123</p> <p>1 <b>you know, I think our meat operations were looking at</b></p> <p>2 <b>it. Specifically, we had responsibilities for dairy</b></p> <p>3 <b>products, and the one thing that had come to mind were</b></p> <p>4 <b>dairy operations and what type of animal right issues</b></p> <p>5 <b>might arise with dairy operations.</b></p> <p>6 Q. (BY MR. FONTECILLA) And you were trying to</p> <p>7 implement a uniform policy in dairy and other areas, in</p> <p>8 the same way that you had a uniform policy in place by</p> <p>9 requiring egg suppliers to comply with the</p> <p>10 UEP guidelines, right?</p> <p>11 <b>A. Well --</b></p> <p>12 MR. MURRAY: Objection to the form of the</p> <p>13 question. It assumes matters that haven't been</p> <p>14 established.</p> <p>15 <b>A. Yeah. We were trying to determine if there was</b></p> <p>16 <b>a need for a policy, is actually what was going on.</b></p> <p>17 Q. (BY MR. FONTECILLA) And if you look at the</p> <p>18 first page of the e-mail, you are copied on this e-mail</p> <p>19 from Ms. Mary Camm, right?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. You testified earlier that Ms. Camm worked in</p> <p>22 your QA group?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. And she worked in your QA group at this time?</p> <p>25 <b>A. Yes.</b></p>	<p style="text-align: right;">125</p> <p>1 Q. And in the second paragraph of the e-mail, it</p> <p>2 says, "The charge that our group is working under now is</p> <p>3 to find acceptable national/industry standards already</p> <p>4 in existence and adopt those as Safeway standards."</p> <p>5 Did I read that correctly?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. And, in fact, Safeway had already found and</p> <p>8 adopted an acceptable national/industry standard in</p> <p>9 existence for its egg suppliers, right?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. And you'd done that back at some time before</p> <p>12 2002, right?</p> <p>13 MR. MURRAY: Objection, mischaracterizes</p> <p>14 his testimony.</p> <p>15 <b>A. The first I remember of having that in writing</b></p> <p>16 <b>in a spec was 2005, but we did point to it in earlier</b></p> <p>17 <b>2002, so...</b></p> <p>18 Q. (BY MR. FONTECILLA) And now --</p> <p>19 <b>A. Yeah.</b></p> <p>20 Q. -- that you've reviewed these documents, when</p> <p>21 would you say --</p> <p>22 <b>A. Yeah. That it -- that it was some -- somewhere</b></p> <p>23 <b>prior to December 2002, so...</b></p> <p>24 Q. And that national industry standard, just so</p> <p>25 we're clear, was the UEP guidelines, correct?</p>

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<p style="text-align: right;">126</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. And you required it of all your suppliers,</p> <p>3 right?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. And that's what you refer to in the next</p> <p>6 sentence when you say, "For example, using</p> <p>7 UEP's guidelines for animal welfare in the shell egg</p> <p>8 industry."</p> <p>9 MR. MURRAY: Object to the form of the</p> <p>10 question. This was written by somebody else.</p> <p>11 Q. (BY MR. FONTECILLA) Excuse me. That's what</p> <p>12 Ms. Camm is referring to in that next sentence; is that</p> <p>13 correct?</p> <p>14 <b>A. Yes, she is.</b></p> <p>15 Q. And then in the third paragraph she writes,</p> <p>16 "Down the road we may want to set our standards higher</p> <p>17 than the industry."</p> <p>18 Do you see that?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. Do you have an understanding of whether she was</p> <p>21 referring to -- in whole or in part, to increasing the</p> <p>22 standards that Safeway required of its egg vendors?</p> <p>23 MR. MURRAY: Objection, calls for</p> <p>24 speculation.</p> <p>25 <b>A. And again, I -- I'm not sure what she was</b></p>	<p style="text-align: right;">128</p> <p>1 <b>A. I'm not sure who was doing the auditing. I</b></p> <p>2 <b>know in 2005 that these were the groups, but I would</b></p> <p>3 <b>assume that this captures the policy back in 2002.</b></p> <p>4 Q. Did anyone direct you to draft this policy?</p> <p>5 <b>A. No.</b></p> <p>6 Q. Well, why did you take it upon yourself to</p> <p>7 draft the policy?</p> <p>8 <b>A. At this time we were being joined together as</b></p> <p>9 <b>QA groups. We had a group vice president who would come</b></p> <p>10 <b>in place. And as I stated before, previously we were</b></p> <p>11 <b>kind of in our own silo, the produce group, the seafood</b></p> <p>12 <b>and meat group, the quality assurance corporate brands</b></p> <p>13 <b>group. We were all being brought together and were</b></p> <p>14 <b>beginning to share communications.</b></p> <p>15 <b>And because of the egg, and we knew that</b></p> <p>16 <b>Virginia -- the meat group had done some work with the</b></p> <p>17 <b>humane treatment of animals. And we were trying -- or I</b></p> <p>18 <b>had taken it on ourselves to try and put this together</b></p> <p>19 <b>and say, These are issues that may come up, we need to</b></p> <p>20 <b>go forward. And sending it to Virginia is kind of</b></p> <p>21 <b>trying to find out far they had gone with their</b></p> <p>22 <b>different issues. So it was not meant as a policy to go</b></p> <p>23 <b>into effect, but something we needed to work at and kind</b></p> <p>24 <b>of share our ideas on it.</b></p> <p>25 <b>(Exhibit No. 5 marked.)</b></p>
<p style="text-align: right;">127</p> <p>1 <b>talking about when she wrote that.</b></p> <p>2 Q. (BY MR. FONTECILLA) Do you recall at any time</p> <p>3 you or Ms. Camm discussing moving from the</p> <p>4 UEP guidelines to some higher standard?</p> <p>5 <b>A. No.</b></p> <p>6 Q. In the attachment, which is the proposed policy</p> <p>7 that you drafted, it says under Roman numeral IV,</p> <p>8 Policy --</p> <p>9 Do you see that section?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. It says, "Shell egg producers will be</p> <p>12 responsible for meeting the animal care and husbandry</p> <p>13 guidelines set forth by the UEP."</p> <p>14 Do you see that?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. It also says, "They will be responsible for</p> <p>17 supplying Safeway quality assurance with an annual audit</p> <p>18 that verifies their compliance. The accepted</p> <p>19 third-party suppliers for this audit are," and then it</p> <p>20 lists Validus and the USDA.</p> <p>21 Do you see that?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. And does this policy accurately capture what</p> <p>24 the Safeway QA group's policy was as to egg vendors</p> <p>25 going back to 2002?</p>	<p style="text-align: right;">129</p> <p>1 Q. (BY MR. FONTECILLA) You have been handed</p> <p>2 what's been marked as Exhibit 5. Do you recognize this</p> <p>3 document, Mr. Lawrence?</p> <p>4 <b>A. No.</b></p> <p>5 Q. Have you ever seen a document in that form?</p> <p>6 <b>A. Just a straight memorandum? I've seen</b></p> <p>7 <b>memorandums, but not to have to do with price and so</b></p> <p>8 <b>forth.</b></p> <p>9 Q. Do you see that this is a -- do you know who</p> <p>10 Mario Jedwabnik is?</p> <p>11 <b>A. No.</b></p> <p>12 Q. Do you see the Safeway logo at the top left?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Is this a type of format that's used for a</p> <p>15 Safeway memorandum?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. Okay. Do you see in the memorandum it says,</p> <p>18 "Please be informed that starting Sunday, January 4th,</p> <p>19 2004, you may change your formula price to include a</p> <p>20 \$0.005 increase per dozen in order to help cover costs</p> <p>21 due to the animal welfare program."</p> <p>22 Do you see that?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. And the memorandum is dated December 8, 2003.</p> <p>25 <b>A. Uh-huh.</b></p>



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<p style="text-align: right;">130</p> <p>1 Q. What animal welfare program could this be 2 referring to?</p> <p>3 MR. MURRAY: Objection, calls for 4 speculation, lack of foundation.</p> <p>5 <b>A. I really don't know. I would assume UEP, but 6 I'm not sure if this is a...</b></p> <p>7 Q. (BY MR. FONTECILLA) You were part of the QA 8 group for -- how did you term it, Consumer Safeway 9 brand --</p> <p>10 <b>A. Consumer brands, Safeway branded items.</b></p> <p>11 Q. Were there any other animal welfare programs 12 that your group had in place in 2003 that relate to 13 products that were sold per dozen?</p> <p>14 MR. MURRAY: Object to the form of the 15 question, lack of foundation.</p> <p>16 Q. (BY MR. FONTECILLA) And I'm not talking about 17 the document. I'm just asking if there was --</p> <p>18 <b>A. Yeah.</b></p> <p>19 Q. -- another animal welfare program around --</p> <p>20 <b>A. No.</b></p> <p>21 Q. -- 2003 that you had in place for products that 22 were sold per dozen?</p> <p>23 <b>A. Only for eggs, I would think.</b></p> <p>24 Q. And so with that understanding, looking at this 25 document, reading it today, understanding that you</p>	<p style="text-align: right;">132</p> <p>1 Q. But your best guess would be that this refers 2 to eggs?</p> <p>3 MR. MURRAY: Objection, calls for 4 speculation, lack of foundation.</p> <p>5 Q. (BY MR. FONTECILLA) And speaking just as the 6 QA manager at the time that this memo appears to have 7 been written?</p> <p>8 MR. MURRAY: Same objection, calls for 9 speculation, lack of foundation.</p> <p>10 <b>A. Yeah. It -- it would be a guess, so --</b></p> <p>11 Q. (BY MR. FONTECILLA) And your best guess would 12 be?</p> <p>13 MR. MURRAY: Objection --</p> <p>14 Q. (BY MR. FONTECILLA) I'm asking for you just --</p> <p>15 MR. MURRAY: -- to asking for a guess.</p> <p>16 MR. FONTECILLA: I'm asking him to 17 speculate on this one.</p> <p>18 MR. MURRAY: I'm objecting for speculation 19 and foundation.</p> <p>20 <b>A. As for pure speculation, I don't know. It 21 would be speculation.</b></p> <p>22 Q. (BY MR. FONTECILLA) Okay. 23 (Exhibit No. 6 marked.)</p> <p>24 Q. (BY MR. FONTECILLA) You've been handed what's 25 been marked as Exhibit 6. Do you recognize this</p>
<p style="text-align: right;">131</p> <p>1 haven't seen it before, what would be your understanding 2 of what it refers to when it says "animal welfare 3 program"?</p> <p>4 MR. MURRAY: Objection, lack of foundation, 5 calls for speculation.</p> <p>6 <b>A. The speculation would be that it would be eggs.</b></p> <p>7 Q. (BY MR. FONTECILLA) Could it mean anything 8 else?</p> <p>9 <b>A. Certainly. It could be a dozen oranges -- 10 branded items such as oranges, ears of corn that were 11 under the Safeway label. I mean...</b></p> <p>12 Q. It says animal welfare program though, and 13 oranges aren't --</p> <p>14 <b>A. Oh, yeah.</b></p> <p>15 Q. -- produced by animals, right?</p> <p>16 <b>A. Okay. So --</b></p> <p>17 Q. So what else could it refer to?</p> <p>18 <b>A. So hot dogs -- branded hot dogs, sausages -- I 19 mean, just arbitrarily.</b></p> <p>20 Q. And you had animal welfare programs in place in 21 2003 that would cover those animals?</p> <p>22 <b>A. I believe they did. That would have been the 23 meat operations that had the slaughter -- humane 24 slaughter and so forth in place, but I'm not -- I'm not 25 even sure of their time frame, but...</b></p>	<p style="text-align: right;">133</p> <p>1 document?</p> <p>2 <b>A. I don't recognize it, but it appears to be a 3 request for proposal from one of the purchasing 4 managers.</b></p> <p>5 Q. Okay. Do you know who the purchasing manager 6 is?</p> <p>7 <b>A. I knew Melissa.</b></p> <p>8 Q. And Melissa LaMaster --</p> <p>9 <b>A. LaMaster.</b></p> <p>10 Q. -- is the author of this e-mail?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. And she's the purchasing manager referred to?</p> <p>13 <b>A. I believe that was her title.</b></p> <p>14 Q. And did she -- do you know whether she had 15 responsibilities or functions related to purchasing eggs 16 or egg products for Safeway?</p> <p>17 <b>A. I believe she did, yes.</b></p> <p>18 Q. And how are you able to identify this in the 19 request for proposal?</p> <p>20 <b>A. It said they're in the process of reviewing 21 bids received via the electronic RFP, request for 22 proposal.</b></p> <p>23 Q. And do you see in the tentative timeline of the 24 RFP it says, "November 18th, USDA and UEP audits due"?</p> <p>25 <b>A. Yes.</b></p>

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<p style="text-align: right;">134</p> <p>1 Q. Was it -- in 2004 were egg suppliers required 2 to provide their UEP audits as part of their submission 3 of proposals to supply Safeway with eggs? 4 <b>A. I don't know. We didn't establish -- that was 5 a marketing standpoint, but, you know, they -- they knew 6 they were required to be certified, so...</b> 7 Q. When an RFP would be issued, to whom at Safeway 8 or what group at Safeway would the egg suppliers submit 9 UEP audits or certificates of verification to? 10 <b>A. All of this information would have gone to 11 the -- to Melissa or to the manager requesting all of 12 that.</b> 13 Q. Would the QA group also receive a copy or some 14 record of whether the supplier was complying with the 15 UEP guidelines? 16 <b>A. Not at that point.</b> 17 Q. What do you mean, not at that point? 18 <b>A. My --</b> 19 Q. You mean not at that point in the process? 20 <b>A. Not -- not at that point in the process. My --</b> 21 Q. Of the request for proposal? 22 <b>A. Right. The request for proposals would be 23 reviewed by the manager, who would then determine who 24 meets the requirements and so forth.</b> 25 Q. When would the QA group receive information</p>	<p style="text-align: right;">136</p> <p>1 that what -- 2 <b>A. Correct.</b> 3 Q. And would they fill out like an audit report? 4 <b>A. Yes. There was a standard audit form they 5 would complete.</b> 6 Q. And did that audit form include some kind of 7 reference to whether the cage space requirements were 8 compliant with the UEP guidelines? 9 <b>A. It wouldn't have that specifically on there. I 10 can't even remember if we had UEP approved or not. That 11 was one of the things they would check, to make sure 12 they were UEP certified before they did it.</b> 13 <b>(Exhibit No. 7 marked.)</b> 14 Q. (BY MR. FONTECILLA) You've been handed what's 15 been marked as Exhibit 7, Mr. Lawrence. Do you 16 recognize this document? 17 <b>A. Yes, I do.</b> 18 Q. How do you recognize this document? 19 <b>A. This was a form that was sent to all vendors 20 that, as part of being a supplier, they received our 21 general food safety and quality specification, and this 22 was simply to acknowledge that they had received and 23 read it and would comply.</b> 24 Q. Did the specifications that are being referred 25 to in this form that was sent out to all your egg</p>
<p style="text-align: right;">135</p> <p>1 that the marketing or business groups would receive 2 related to UEP audits of bidders for egg production? 3 <b>A. One -- once -- and as I understand -- this may 4 be a little different. As I remember, the managers 5 would receive all of this information including, I 6 guess, the pricing. And once they had done pricing, 7 supply, and so forth, and had said, you know, These 8 people are approved for QA, you know, because they meet 9 the USDA and that, then they would decide who they 10 wanted to use.</b> 11 <b>Then they would contact us and say, These 12 are the people we want to use. Who has been audited, 13 who has successful -- who's currently an approved 14 vendor? And after they've done all the costing and the 15 economics the end of it -- that's the kind of Chinese 16 wall that kept us from being involved in cost -- then 17 she would say -- she would send us an actual form that 18 said, Audit Request, and would list the vendors that she 19 wanted to be audited.</b> 20 Q. And when you would receive that from the 21 purchasing person, what would you or your group do? 22 <b>A. The auditors would contact the vendors and 23 arrange an audit day to go inspect the facility.</b> 24 Q. And the Safeway QA auditors, one of the 12 25 would go out to the facility and audit the facility. Is</p>	<p style="text-align: right;">137</p> <p>1 vendors, in any way relate to their compliance with the 2 UEP guidelines? 3 <b>A. I don't believe so, no.</b> 4 Q. So the specifications here are for 5 specifications other than animal welfare? 6 <b>A. Correct.</b> 7 Q. Okay. Were any such forms or acknowledgement 8 documents sent to egg vendors to -- for them to certify 9 that they were complying with the UEP guidelines? 10 <b>A. No. That was in the product specification 11 requirement.</b> 12 <b>(Exhibit No. 8 marked.)</b> 13 Q. (BY MR. FONTECILLA) You've been handed what's 14 been marked as Exhibit 8. Do you see that halfway down 15 in this document there's an e-mail from you to Celeste 16 Smith and Jim Gregory on October 31st, 2005? 17 <b>A. Yes.</b> 18 Q. Do you recall the context surrounding this 19 e-mail discussion in or about 2005? 20 <b>A. Not really.</b> 21 Q. And in the first page of this e-mail there's an 22 e-mail from Celeste Smith, and she has a Safeway e-mail 23 address. Do you see that? 24 <b>A. Yes.</b> 25 Q. Do you know who Celeste Smith is?</p>



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<p style="text-align: right;">138</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. What was her role at this time of this e-mail?</p> <p>3 <b>A. At this time I think she was manager -- either</b></p> <p>4 <b>manager or director of purchasing for -- eggs would have</b></p> <p>5 <b>been one of her responsibilities.</b></p> <p>6 Q. Would her roles have been similar to Melissa</p> <p>7 LaMaster's?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. And do you have an understanding, from</p> <p>10 reviewing her e-mail to you, why the -- this purchasing</p> <p>11 manager or director would be e-mailing you about animal</p> <p>12 care certified eggs?</p> <p>13 MR. MURRAY: Objection, calls for</p> <p>14 speculation.</p> <p>15 <b>A. No. I...</b></p> <p>16 Q. (BY MR. FONTECILLA) And there's an e-mail on</p> <p>17 the --</p> <p>18 <b>A. Animal Care --</b></p> <p>19 Q. -- back page, too.</p> <p>20 <b>A. Oh, okay. That's the Animal Care. That had</b></p> <p>21 <b>been -- Animal Care had changed to UEP. That threw me</b></p> <p>22 <b>for a minute, I'm sorry. I'm not sure who James Minkin</b></p> <p>23 <b>is.</b></p> <p>24 Q. Well, here, why --</p> <p>25 <b>A. This --</b></p>	<p style="text-align: right;">140</p> <p>1 writing." Do you see that?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. He says, "My major reason for writing is caused</p> <p>4 by a question posed by an egg supplier. The question</p> <p>5 was: Does Safeway require all of their eggs to be</p> <p>6 produced by United Egg Producers certified companies?"</p> <p>7 Do you see that?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. And Ms. Celeste Smith forwards you the question</p> <p>10 and copies Gene Gregory, saying, "David Lawrence and his</p> <p>11 team work with our marketing group in many areas to</p> <p>12 establish the expectations and requirements for our</p> <p>13 suppliers. He is in the best position to answer your</p> <p>14 question," right?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. And then your response is that "Our</p> <p>17 specifications require this," right?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. You were answering Gene's question, right?</p> <p>20 <b>A. Yes. And again, that was a quick e-mail</b></p> <p>21 <b>response. I was probably not as succinct as I would</b></p> <p>22 <b>have been. We didn't require them to be certified by</b></p> <p>23 <b>UEP, but we required them to be certified to the</b></p> <p>24 <b>requirements of UEP.</b></p> <p>25 Q. But if they were UEP certified, that would</p>
<p style="text-align: right;">139</p> <p>1 Q. Why don't we walk through it, starting with</p> <p>2 the -- but I don't want to interrupt your answer. Go...</p> <p>3 <b>A. This just appears to be a qualify -- a request</b></p> <p>4 <b>from us to qualify whether we were requiring -- they're</b></p> <p>5 <b>saying Animal Care certified eggs, but I think that was</b></p> <p>6 <b>the name of the program before they changed it.</b></p> <p>7 Q. If you take a look to the back of the</p> <p>8 document --</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. -- this is the initial inquiry sent by Gene</p> <p>11 Gregory to Safeway that is then forwarded to you by</p> <p>12 Celeste Smith, right?</p> <p>13 <b>A. Okay.</b></p> <p>14 Q. And at the bottom of the first page -- it</p> <p>15 actually says at the bottom "Gene Gregory Wrote" -- at</p> <p>16 the bottom of the first page it says, "Gene Gregory</p> <p>17 Wrote," and then it has that e-mail on the back page,</p> <p>18 right?</p> <p>19 I just -- I need a verbal answer to --</p> <p>20 <b>A. Yes.</b></p> <p>21 MR. MURRAY: Well, he's looking at it.</p> <p>22 MR. FONTECILLA: No, no, I know.</p> <p>23 Q. (BY MR. FONTECILLA) And if you look in Gene</p> <p>24 Gregory's note, about three-quarters of the way down he</p> <p>25 has a sentence that starts with, "My major reason for</p>	<p style="text-align: right;">141</p> <p>1 satisfy the requirement?</p> <p>2 <b>A. Yes.</b></p> <p>3 <b>(Exhibit No. 9 marked.)</b></p> <p>4 Q. (BY MR. FONTECILLA) You've been handed what's</p> <p>5 been marked as Exhibit 9.</p> <p>6 <b>A. Uh-huh.</b></p> <p>7 Q. Do you recognize this to be an e-mail exchange</p> <p>8 that you had with Mary Camm and Michael Talbott in</p> <p>9 November 2005?</p> <p>10 <b>A. I don't remember it, but it definitely appears</b></p> <p>11 <b>to be, yes.</b></p> <p>12 Q. The e-mail exchange starts at the bottom of the</p> <p>13 first page with an e-mail that continues onto the second</p> <p>14 page, and it's written by Celeste Smith. Do you see</p> <p>15 that?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. Do you know who the individuals listed in the</p> <p>18 To line are?</p> <p>19 <b>A. I'm sorry, in the --</b></p> <p>20 Q. In the To line of Ms. Smith's e-mail.</p> <p>21 <b>A. No.</b></p> <p>22 Q. Do you know who John Larson is?</p> <p>23 <b>A. I remember John -- I remember the name, but I</b></p> <p>24 <b>don't remember what his specific responsibilities were.</b></p> <p>25 Q. And do you see in Celeste's e-mail she says,</p>

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<p style="text-align: right;">142</p> <p>1 "Safeway requires all of our suppliers to comply with 2 UEP's animal husbandry guidelines. If a supplier is not 3 UEP certified, we require for our records an independent 4 audit firm verifying that the supplier is in compliance 5 with the UEP's guidelines." 6 Do you see that? 7 <b>A. Yes.</b> 8 Q. Is that an accurate characterization of 9 Safeway's policy with regards to its egg suppliers at 10 the time that this e-mail was sent on November 17, 2005? 11 <b>A. Yes.</b> 12 Q. And is it an accurate characterization of the 13 policy that was in place since at least December 2002? 14 <b>A. I believe so, yes.</b> 15 Q. And then you respond to her e-mail, and it says 16 in your e-mail, "Several of the competitors have made 17 comments regarding Kreider's failure to participate in 18 the UEP program." 19 Do you see that? 20 <b>A. Yes.</b> 21 Q. Do you remember what you were referring to? 22 <b>A. I'm not sure what competitors. I know that --</b> 23 <b>I recall that Kreider had their own program that they</b> 24 <b>wanted to use instead of UEP.</b> 25 Q. And this e-mail is around the time that you</p>	<p style="text-align: right;">144</p> <p>1 Q. In that sentence you seem to draw a distinction 2 between participating in the UEP program and complying 3 with it; is that fair? 4 <b>A. That's correct.</b> 5 Q. How would you describe the difference? 6 <b>A. They did not have to be a member of UEP, but</b> 7 <b>they had to implement all of the requirements of the UEP</b> 8 <b>physical programs for the plants: cage space, beaking,</b> 9 <b>debeaking, ammonia analysis, and so forth.</b> 10 Q. And in the topmost e-mail, you end up 11 circulating a copy of the animal welfare guidelines; is 12 that correct? 13 <b>A. Yes.</b> 14 <b>(Exhibit No. 10 marked.)</b> 15 Q. (BY MR. FONTECILLA) I'm handing you what's 16 been marked as Exhibit 10. This is a letter of 17 agreement between NuCal and Safeway; is that correct? 18 <b>A. Yes.</b> 19 Q. Do you recognize this document? 20 <b>A. No.</b> 21 Q. Do you recognize the format of this document 22 being consistent with letters of agreements entered into 23 by Safeway with its egg suppliers? 24 MR. MURRAY: I'm going to object to the 25 characterization that this is an agreement. It's not</p>
<p style="text-align: right;">143</p> <p>1 were being made aware that Kreider was using a different 2 program, other than the UEP guidelines? 3 <b>A. Yes.</b> 4 Q. And you were made aware of that by some of 5 Kreider's competitors or other egg suppliers? 6 <b>A. Well, and by Kreider themselves.</b> 7 Q. And what was your response to the information 8 you received about Kreider failing to participate in the 9 UEP program? 10 <b>A. We arranged -- as I recall, we arranged a</b> 11 <b>conference call to discuss this with Kreider.</b> 12 Q. And what was discussed on the conference call? 13 <b>A. The need and the reason that we wanted them to</b> 14 <b>use UEP.</b> 15 Q. And was part of the reason that you wanted them 16 to use UEP is you wanted them to comply with the cage 17 space requirements that were in the UEP guidelines? 18 <b>A. We wanted them to comply with the UEP, all --</b> 19 <b>all of the requirements of it, yes.</b> 20 Q. And that's what you say in the third sentence 21 of your paragraph. You say, "We do not mandate that 22 they participate in the UEP program, but we do require 23 that they comply with it and that they have a 24 third-party verification." 25 <b>A. Yes.</b></p>	<p style="text-align: right;">145</p> <p>1 signed by Safeway. 2 <b>A. I was not a part usually of letter agreements</b> 3 <b>like this. So I don't really know whether this or</b> 4 <b>where -- who would have done this, no.</b> 5 Q. (BY MR. FONTECILLA) Sure. And if you -- if 6 you turn to the agreement, it has some specifications 7 attached to it. Specifically, I'll turn your attention 8 to the last page where it says Exhibit B, 9 Specifications, Requirements, and Description. Do you 10 see that? 11 <b>A. Yes.</b> 12 Q. Now, do you recognize this page of the 13 document? 14 <b>A. No.</b> 15 Q. And do you see that there's a section called 16 quality requirements about four sections from the 17 bottom? 18 <b>A. Yes.</b> 19 Q. Do you see it says, "Must comply with UEP's 20 animal husbandry guidelines"? 21 <b>A. Yes.</b> 22 Q. Do you have any understanding of how this 23 requirement came into being as part of the 24 specifications attached to a letter of agreement? 25 MR. MURRAY: Objection, lack of foundation.</p>

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<p style="text-align: right;">146</p> <p>1 <b>A. No. This would have been something prepared by</b>  2 <b>somebody other than the QA group.</b>  3 Q. (BY MR. FONTECILLA) And how would someone  4 outside the QA group have known around 2005 that the  5 quality requirements for Safeway's egg suppliers were  6 that they must comply with UEP's animal husbandry  7 guidelines?  8 MR. MURRAY: Objection, calls for  9 speculation.  10 <b>A. The product specification is the only way I</b>  11 <b>would know, if they had a Safeway product specification.</b>  12 Q. (BY MR. FONTECILLA) And what are you referring  13 to when you say "product specification"?  14 <b>A. The product specification written for eggs.</b>  15 Q. And when was the first product specification  16 written for eggs?  17 <b>A. When was the first one?</b>  18 Q. Yes.  19 <b>A. I would assume there were...</b>  20 Q. So let's look at --  21 <b>A. In the 1950, 1940 -- I mean, there's always</b>  22 <b>been product specifications for products or --</b>  23 Q. Okay. Fair enough. And when you were a QA  24 auditor there were product specifications, right?  25 <b>A. Yes.</b></p>	<p style="text-align: right;">148</p> <p>1 requirement at your direction?  2 <b>A. Yes.</b>  3 Q. And the animal welfare specifications that was  4 added or included was that suppliers must comply with  5 the UEP guidelines; is that fair?  6 <b>A. Yes.</b>  7 Q. And those are the specifications that someone  8 in marketing or purchasing would have relied on in  9 drafting contracts or bids or RFPs related to egg  10 suppliers, right?  11 <b>A. Yes. They should have relied on them.</b>  12 Q. Do you recall Ms. Camm -- you or anyone on your  13 team speaking with UEP in or about 2005?  14 <b>A. Not specifically, no.</b>  15 Q. What about generally, do you recall whether  16 anyone on your team talked to UEP about the guidelines  17 or the audits?  18 <b>A. Again, not specifically anything.</b>  19 Q. And do you know who Flora Youssefifar or George  20 Baranowski are?  21 <b>A. Yes.</b>  22 Q. And who are those individuals?  23 <b>A. They were quality assurance auditors working</b>  24 <b>for me.</b>  25 Q. And do you recall whether the quality -- there</p>
<p style="text-align: right;">147</p> <p>1 Q. When you were a QA manager, there were as well,  2 right?  3 <b>A. When I started for Safeway in '73 -- the -- I</b>  4 <b>can say that in 1973 I knew there were product</b>  5 <b>specifications for eggs. Before that, I don't know,</b>  6 <b>but...</b>  7 Q. And when was the first time that those product  8 specifications included a requirement related to animal  9 welfare?  10 <b>A. To the best of my knowledge, that was 2005, but</b>  11 <b>that's --</b>  12 Q. And who made the -- as QA manager in 2005,  13 would it have been you that made the decision to add  14 that to the specifications?  15 <b>A. I would have had ultimate responsibility for</b>  16 <b>that, yes.</b>  17 Q. Do you recall making that decision to change  18 the specifications to include the animal welfare  19 requirement?  20 <b>A. I don't specifically recall that. It was, at</b>  21 <b>the time, a minor issue. We had so many other things</b>  22 <b>going, that was really a minor change to us, so...</b>  23 Q. But just so we're clear, at some point in or  24 about 2005, to the best of your recollection, the  25 specifications were changed to include an animal welfare</p>	<p style="text-align: right;">149</p> <p>1 was a subgroup of quality assurance officers looking  2 into animal welfare audits for shell egg and poultry  3 facilities in or around 2006?  4 <b>A. I know that they were looking into dairy. I'm</b>  5 <b>not sure that they were involved with poultry or not.</b>  6 <b>(Exhibit No. 11 marked.)</b>  7 Q. (BY MR. FONTECILLA) I'm handing you what's  8 been marked as Exhibit 11. Can you turn to the last  9 page? You'll see an e-mail from Mary Camm to Virginia  10 Littlefield, Ms. Youssefifar, and Mr. Baranowski. Do  11 you see that e-mail?  12 <b>A. Yes.</b>  13 Q. And in about the third sentence she says,  14 "George, Flora, and me are on a subgroup that is looking  15 into animal welfare audits for shell egg and poultry  16 facilities."  17 <b>A. Okay. Yes.</b>  18 Q. "We have spoken to UEP regarding their  19 certification program, and they told us that the USDA  20 and a private group, Validus, conduct their animal  21 welfare audits that are part of the UEP certification  22 process."  23 Did I read that correctly?  24 <b>A. Yes.</b>  25 Q. And it says, "I was also told by David</p>

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<p style="text-align: right;">150</p> <p>1 Lawrence, our QA manager, that Silliker conducts animal 2 welfare audits."</p> <p>3 Do you see that?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. Does reading this e-mail refresh your 6 recollection about whether there was a subgroup in the 7 QA team looking into the UEP audits and certification 8 program in about 2005?</p> <p>9 <b>A. It -- it makes me believe that there was. I 10 don't remember much about that. It was -- there were a 11 lot going on, so...</b></p> <p>12 Q. And does this refresh your recollection about 13 whether you or folks on your team at the time in 2005 14 spoke with UEP about their certification program?</p> <p>15 <b>A. And Mary states she did, so she must -- she or 16 somebody in the group must have.</b></p> <p>17 Q. And do you know -- does this refresh your 18 recollection about what was discussed or what 19 information she or others on your team received from UEP 20 about the certification program?</p> <p>21 <b>A. I don't remember anything in specific. 22 (Exhibit No. 12 marked.)</b></p> <p>23 Q. (BY MR. FONTECILLA) I'm handing you what's 24 been marked as Exhibit 12, Mr. Lawrence. This is an 25 e-mail with an attachment attached to it. You'll see at</p>	<p style="text-align: right;">152</p> <p>1 familiar with this policy and would comply with it?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. And was such a policy in place going back to 4 when you were a QA auditor, starting in about 1996?</p> <p>5 <b>A. They were -- no. These -- these evolved.</b></p> <p>6 Q. And -- but there were some -- some procedure in 7 place, even if it evolved over time?</p> <p>8 <b>A. It may have been unwritten.</b></p> <p>9 Q. And do you see in the third page of the 10 attachment there's a section entitled Shell Eggs?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. And it says, No. 2, "All shell egg suppliers 13 are required to comply with the UEP humane treatment 14 guidelines and to provide third-party verifications."</p> <p>15 Do you see that?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. And that was part of the policy that was in 18 place in February of 2006, which is the date of this 19 particular document?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. And would that have been in place in the 22 policies, whether written or unwritten, that were in 23 place as early as December of 2002?</p> <p>24 <b>A. I'm not sure. This was the first document 25 written, as signified by the 001. That's the issue</b></p>
<p style="text-align: right;">151</p> <p>1 the top of the first page of the e-mail under the 2 Attachments line it says, "Quality Assurance Audit 3 Requirements Were Documented." Do you see that?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. And in the bottom of the first page there is an 6 e-mail exchange that you're copied on. Do you see that?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. And this first e-mail is from a gentleman named 9 Rick Schmidt. Do you know who he is?</p> <p>10 <b>A. I don't remember specifically who he is, no.</b></p> <p>11 Q. And do you recognize the attachment that's 12 titled Quality Assurance Procedures?</p> <p>13 <b>A. Yes, I do.</b></p> <p>14 Q. How do you recognize the attachment?</p> <p>15 <b>A. This was one of our procedures that spelled out 16 what vendors had to do to be certified.</b></p> <p>17 Q. And this would have been completed by the 18 quality assurance folks who audited a particular 19 facility on behalf of Safeway?</p> <p>20 <b>A. No, not this one. This is simply our statement 21 of the procedure we followed. So there would have been 22 audit form, but this -- this basically was the standard 23 operating procedure, so that if I left, whoever took 24 over knew exactly how things functioned.</b></p> <p>25 Q. And QA auditors and QA managers would be</p>	<p style="text-align: right;">153</p> <p>1 <b>number. So prior to that it would have all been just 2 verbal.</b></p> <p>3 Q. And would the verbal procedure or policy going 4 back to 2002 have -- would this No. 2 accurately reflect 5 what the policy and procedure was going back to 2002?</p> <p>6 <b>A. Verbal policies can be changed, so I can't say 7 that it would or wouldn't have.</b></p> <p>8 Q. But do you have any reason to believe that QA 9 auditors and QA managers were operating under a 10 different understanding than what is referred to in 11 No. 2 of this page?</p> <p>12 MR. MURRAY: Object to the form of the 13 question, calls for speculation.</p> <p>14 <b>A. I honestly can't -- can't address the verbal 15 part of that.</b></p> <p>16 Q. (BY MR. FONTECILLA) What -- if you were to 17 characterize what -- the verbal policy or procedure in 18 place when you became QA manager --</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. -- in 2001, how would you describe the policy 21 or procedure that was in place for vendor program 22 requirements for shell egg producers?</p> <p>23 <b>A. They had to have the audit -- the timeline, I 24 was off on. I'm not sure and can't -- can't really 25 recall when we implemented the UEP. It appears from</b></p>

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<p style="text-align: right;">154</p> <p>1 previous documents that that December 2002, that we had</p> <p>2 it prior to that. But I honestly can't say, yes, we had</p> <p>3 it in place.</p> <p>4 (Exhibit No. 13 marked.)</p> <p>5 Q. (BY MR. FONTECILLA) Mr. Lawrence, you've been</p> <p>6 handed what has been marked as Exhibit 13, which is an</p> <p>7 e-mail from you, dated 2006; is that right?</p> <p>8 A. Yes.</p> <p>9 Q. And do you recall sending this e-mail?</p> <p>10 A. I don't specifically remember this, no. Sorry.</p> <p>11 Q. Do you see in the second paragraph where you</p> <p>12 say -- you write, "I definitely agree that we should not</p> <p>13 have any of the details included in the audits</p> <p>14 available. Even some of the humane requirements could</p> <p>15 be misconstrued as cruel by the general public."</p> <p>16 A. Yes.</p> <p>17 Q. So what did you mean when you wrote that?</p> <p>18 A. The statement I made with regard to details</p> <p>19 included in the audits available was clearly stating</p> <p>20 what was taking place in some because even with humane</p> <p>21 treatment or with improvements in humane treatment, the</p> <p>22 general public who might obtain access to them, might</p> <p>23 still regard them as somewhere barbaric. Even with</p> <p>24 reduction in cage spaces or humane slaughter facilities,</p> <p>25 there was real concern that, even with the improvements</p>	<p style="text-align: right;">156</p> <p>1 MR. MURRAY: Object to the form of the</p> <p>2 question. It's ambiguous.</p> <p>3 Q. (BY MR. FONTECILLA) We talked earlier about</p> <p>4 how, at some point before December 2002, Safeway started</p> <p>5 requiring all its egg suppliers to be compliant with the</p> <p>6 UEP guidelines, right?</p> <p>7 A. Right.</p> <p>8 Q. Before that point, was there some kind of</p> <p>9 gradual increase -- or let me ask it this way.</p> <p>10 Did you monitor before then how many egg</p> <p>11 suppliers were complying with the UEP guidelines?</p> <p>12 A. No.</p> <p>13 Q. Was it a sudden shift from not requiring</p> <p>14 complying with UEP guidelines at all to requiring all</p> <p>15 the egg suppliers to comply with UEP guidelines, or was</p> <p>16 there some kind of gradual or iterative process to</p> <p>17 getting there?</p> <p>18 A. I -- well, there was a process within UEP</p> <p>19 bringing people online, but I think we made the shift,</p> <p>20 all -- it was all or nothing. We, at one -- when we</p> <p>21 made the decision, evidently, prior to that, but I know</p> <p>22 with specifications written in 2005, we had that in</p> <p>23 place. So before anybody could produce, they had to be</p> <p>24 UEP compliant.</p> <p>25 Q. And before the decision was made to require</p>
<p style="text-align: right;">155</p> <p>1 that were being made, the public would still react very</p> <p>2 negatively to that.</p> <p>3 Q. Did -- are you aware of any instances where</p> <p>4 Safeway showed a preference for egg suppliers that had</p> <p>5 more facilities in compliance with the UEP guidelines'</p> <p>6 cage space specifications?</p> <p>7 A. No.</p> <p>8 Q. Do you recall ever being part of discussions</p> <p>9 with Brian Dowling and Don Davidson regarding showing a</p> <p>10 preference to suppliers that showed a reduction of</p> <p>11 battery free cages?</p> <p>12 A. I vaguely recall, as we were making a move to</p> <p>13 increase -- not showing a preference, but we were</p> <p>14 working to increase the number of free range -- not free</p> <p>15 range, cage free birds, and the market was increasing.</p> <p>16 There was an opportunity cost -- or opportunities for</p> <p>17 marketing those. And so we were moving to have more</p> <p>18 cage free birds, but I don't recall any preferences</p> <p>19 being given to them.</p> <p>20 Q. Do you recall, as Safeway moved towards having</p> <p>21 a policy where it required all of its egg suppliers to</p> <p>22 be compliant with the UEP guidelines, a gradual increase</p> <p>23 in the amount of egg suppliers that were complying with</p> <p>24 UEP guidelines prior to Safeway requiring all its</p> <p>25 suppliers to be compliant?</p>	<p style="text-align: right;">157</p> <p>1 everyone to be UEP compliant, was there a time before</p> <p>2 that requirement was in place, where you preferred or</p> <p>3 liked to see an egg supplier be compliant with the</p> <p>4 UEP guidelines, even though it wasn't a requirement?</p> <p>5 A. Not that I know of, no.</p> <p>6 (Exhibit No. 14 marked.)</p> <p>7 Q. (BY MR. FONTECILLA) You have in front of you</p> <p>8 Exhibit 14, Mr. Lawrence. Do you see this e-mail from</p> <p>9 Heather Thornsley dated May 6, 2008?</p> <p>10 A. Yes.</p> <p>11 Q. You were a recipient of this e-mail?</p> <p>12 A. Yes.</p> <p>13 Q. Do you recall the context surrounding this</p> <p>14 e-mail exchange?</p> <p>15 A. No, not the -- it doesn't seem to come to mind.</p> <p>16 Q. Do you know what the ICIX is?</p> <p>17 A. Yes.</p> <p>18 Q. What is that?</p> <p>19 A. It's -- it was a computer system built to</p> <p>20 basically allow vendors to post information. All of our</p> <p>21 vendors would be on the computer system. They would</p> <p>22 post their audit documents -- an electronic document</p> <p>23 exchange program which was secure. Each vendor would be</p> <p>24 able to post documents that only Safeway could see, or</p> <p>25 any other vendors they had could see.</p>



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<p style="text-align: right;">158</p> <p>1 Q. And would Safeway's egg vendors post to the 2 ICIX system their UEP certificate?</p> <p>3 <b>A. Yes. They were supposed to.</b></p> <p>4 Q. And that would be a way by which Safeway's QA 5 auditors or QA managers could verify that a particular 6 egg vendor was up-to-date with compliance with Safeway's 7 egg specifications?</p> <p>8 <b>A. Correct.</b></p> <p>9 MR. MURRAY: This is Exhibit 14, was it? 10 (Exhibit No. 15 marked.)</p> <p>11 Q. (BY MR. FONTECILLA) Mr. Lawrence, do you 12 recognize the letter written to you that's been marked 13 as Exhibit 15?</p> <p>14 <b>A. Yes, I do.</b></p> <p>15 Q. And what is this -- this letter?</p> <p>16 <b>A. This was a letter from one of the USDA branch 17 cartoning managers or grading supervisors. We were -- 18 for products produced under USDA shields, we would 19 forward them our specifications and they would inspect 20 the products according to our specifications.</b></p> <p>21 Q. And they were a third-party auditor that would 22 make sure that egg vendors' products were complying with 23 Safeway's egg specifications?</p> <p>24 <b>A. Yes. The US Department of Agricultural.</b></p> <p>25 Q. And when did the USDA first start functioning</p>	<p style="text-align: right;">160</p> <p>1 <b>A. Or -- or if that facility was already audited 2 as part of UEP, then they would simply take in the 3 certification.</b></p> <p>4 Q. Did they just --</p> <p>5 <b>A. They may -- the USDA on this might not actually 6 do the house inspection. They may just validate that 7 they have an existing UEP certificate in place.</b></p> <p>8 Q. So the USDA would sometimes rely on the UEP 9 certified program certificate of a particular vendor in 10 order to determine whether that facility was complying 11 with Safeway's specifications?</p> <p>12 <b>A. Yes. They might, in turn -- they might 13 actually do the certification, issue the certificate, 14 and then the same person would just say the certificate 15 is there. So they didn't -- it wasn't necessarily a 16 double inspection, is what it boiled down to.</b></p> <p>17 Q. Were you the person that would send the 18 specifications to the USDA representative?</p> <p>19 <b>A. Either I would, or the local area auditor would 20 be responsible for that.</b></p> <p>21 Q. And do you recall when the first time was that 22 you, or someone in the QA team, sent to USDA Safeway's 23 specifications that included a reference to 24 UEP's guidelines?</p> <p>25 <b>A. My knowledge of that would be that in 2005 we</b></p>
<p style="text-align: right;">159</p> <p>1 in that role for Safeway?</p> <p>2 <b>A. Again, certain section -- I can go back to 3 1973, but they have, in various divisions. Some 4 divisions would utilize the USDA for inspection, some 5 would not.</b></p> <p>6 Q. And when you say "divisions," you mean the 7 different produce or product --</p> <p>8 <b>A. No, I'm sorry. Eastern division -- retail 9 division: Eastern Division, Southern California, 10 Northern California.</b></p> <p>11 Q. Would Safeway send this specific -- its 12 specifications for egg vendors --</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. -- to other third-party auditors, like Validus 15 or Silliker as well, that it was using?</p> <p>16 <b>A. No.</b></p> <p>17 Q. It would only send it to USDA?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. And those specifications would include the 20 requirement that Safeway's egg suppliers comply with the 21 UEP animal husbandry guidelines, right?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. And the USDA would audit a particular facility 24 or egg supplier according to that particular 25 requirement?</p>	<p style="text-align: right;">161</p> <p>1 <b>would have done that.</b></p> <p>2 Q. When a QA auditor would go and inspect a 3 particular facility to make sure it was complying with 4 the UEP guidelines, what would that auditor be looking 5 for, in terms of compliance with the UEP guidelines?</p> <p>6 <b>A. Well, they didn't usually inspect one for UEP 7 compliance. They would normally simply request the 8 UEP certification certificate. You're talking about a 9 Safeway QA auditor?</b></p> <p>10 <b>Yeah.</b></p> <p>11 Q. But that --</p> <p>12 <b>A. They would simply verify that by seeing the 13 certificate. They...</b></p> <p>14 Q. And that certificate could be the UEP certified 15 program certificate?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. Could it also be independent verification by a 18 third-party auditor like Validus?</p> <p>19 <b>A. That would have been acceptable, yes.</b></p> <p>20 Q. And what is -- when Safeway first started 21 requiring the UEP guidelines and requiring its suppliers 22 to provide certification, what was the estimated 23 breakdown, in terms of percentage, between those egg 24 suppliers that had a UEP certified program certificate 25 and suppliers that used a third-party verified --</p>



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<p style="text-align: right;">162</p> <p>1 verification system?</p> <p>2 <b>A. They were 100 percent UEP certified. We never</b></p> <p>3 <b>had a single supplier use an outside auditor for that.</b></p> <p>4 Q. And that was true through the time that you</p> <p>5 left Safeway in 2009?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. And what do you understand the reason for that</p> <p>8 to be?</p> <p>9 MR. MURRAY: Objection, calls for</p> <p>10 speculation.</p> <p>11 <b>A. I really don't know.</b></p> <p>12 Q. (BY MR. FONTECILLA) Do you recall ever talking</p> <p>13 to someone or getting questions from Validus saying, you</p> <p>14 know, Why isn't anyone using us?</p> <p>15 <b>A. No. The only one what wasn't was Kreider, and</b></p> <p>16 <b>I did ask them why. I just told them they needed to.</b></p> <p>17 <b>(Exhibit No. 16 marked.)</b></p> <p>18 Q. (BY MR. FONTECILLA) Mr. Lawrence, you have in</p> <p>19 front of you what's been marked as Exhibit 16. Do you</p> <p>20 recognize the letterhead on this letter?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. And have you received letters or reviewed</p> <p>23 previously letters from the Food Marketing Institute?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. And do you recognize any Safeway personnel who</p>	<p style="text-align: right;">164</p> <p>1 first page -- and feel free to review the attachments,</p> <p>2 but do you recognize any of the attachments as documents</p> <p>3 that you would have seen in or around the time of this</p> <p>4 letter in 2001?</p> <p>5 <b>A. I do not specifically recall these, no.</b></p> <p>6 Q. Do you see that in the letter on the first page</p> <p>7 the fifth item is listed as McDonald's Animal Welfare</p> <p>8 Guiding Principles?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. Now, if you flip to -- using the number in the</p> <p>11 bottom right, to the page numbered 1138, do you see the</p> <p>12 page titled McDonald's Animal Welfare Guiding</p> <p>13 Principles?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. Do you recognize this document?</p> <p>16 <b>A. Not this specific one, but I have seen these</b></p> <p>17 <b>before.</b></p> <p>18 Q. And what do you understand these to be?</p> <p>19 <b>A. These were, as I recall, the general outline of</b></p> <p>20 <b>the way McDonald's was recommending handling animal</b></p> <p>21 <b>welfare principles.</b></p> <p>22 Q. And do you see in the second page where it says</p> <p>23 at the top, McDonald's USA, Major Actions Taken With</p> <p>24 Advice of Animal Welfare Counsel, August 2000?</p> <p>25 <b>A. Yes.</b></p>
<p style="text-align: right;">163</p> <p>1 received this particular letter?</p> <p>2 <b>A. Rich Calhoun.</b></p> <p>3 Q. And what was Rich Calhoun's position on the</p> <p>4 date that this letter was sent out --</p> <p>5 <b>A. He would --</b></p> <p>6 Q. -- on July 2nd, 2001?</p> <p>7 <b>A. He would have been the quality assurance</b></p> <p>8 <b>director.</b></p> <p>9 Q. And you reported to him at this time?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. And do you recall ever seeing this particular</p> <p>12 FMI letter?</p> <p>13 <b>A. I don't specifically remember seeing this, no.</b></p> <p>14 Q. Do you see in the letter on the first page it</p> <p>15 refers to a meeting at the O'Hare Hilton in Chicago. Do</p> <p>16 you see that?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. Do you recall ever talking to Mr. Cotton about</p> <p>19 that meeting?</p> <p>20 <b>A. No, I don't.</b></p> <p>21 Q. Do you see that in the letter it says,</p> <p>22 "Attached are," and then it lists about six items that</p> <p>23 the letter attaches?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. Looking at the list of attachments on that</p>	<p style="text-align: right;">165</p> <p>1 Q. Do you see the section titled New Laying Hen</p> <p>2 Policy?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. And would -- do you recall seeing a description</p> <p>5 of McDonald's animal welfare policies that include</p> <p>6 content similar to this one?</p> <p>7 MR. MURRAY: Object to the form.</p> <p>8 <b>A. I don't remember seeing this specifically, but</b></p> <p>9 <b>I remember seeing this published in magazines, so...</b></p> <p>10 Q. (BY MR. FONTECILLA) And you would have seen</p> <p>11 that published in magazines in or around August 2000?</p> <p>12 <b>A. I'm -- I can't think of the date. I can just</b></p> <p>13 <b>remember seeing this published.</b></p> <p>14 Q. And do you see that it -- under New Laying Hen</p> <p>15 Policy, it says, "McDonald's USA will purchase eggs from</p> <p>16 suppliers who adopt the United Egg Producers' scientific</p> <p>17 advisory committee recommendations."</p> <p>18 Do you see that?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. And then it says in the first bullet point,</p> <p>21 excuse me, "We will require that space per bird be</p> <p>22 increased to a minimum of 72 square inches."</p> <p>23 Do you see that?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. Is that an accurate characterization of the</p>

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<p style="text-align: right;">166</p> <p>1 McDonald's policy that you testified earlier that you 2 considered or were aware of while you and your QA team 3 were evaluating other potential animal husbandry 4 guidelines? 5 <b>A. I do -- I do not remember the specific number 6 of square inches. I think you mentioned some, but I 7 don't -- I don't remember the exact numbers.</b> 8 Q. Do you know what the UEP's cage per square inch 9 recommendation was when Safeway first decided to use the 10 UEP guidelines? 11 <b>A. No, I don't.</b> 12 Q. Do you see in the next page there is a press 13 release from Burger King? 14 <b>A. Yes.</b> 15 Q. And it's dated June 28, 2001? 16 <b>A. Yes.</b> 17 Q. Do you recall, in or around 2001, learning that 18 Burger King had also adopted certain animal welfare 19 policies regarding egg production? 20 <b>A. I do not remember the Burger King.</b> 21 Q. Do you see on the second page there's a section 22 in bold titled Animal Handling During Egg Production? 23 <b>A. Yes.</b> 24 Q. And it says, "Burger King Corporation will 25 adopt, and in some cases exceed, the United Egg</p>	<p style="text-align: right;">168</p> <p>1 <b>A. You know, at the time, although this seems like 2 a very big issue, it was relatively small to us. We 3 were depending upon the industry to come up with good 4 terms. I think we -- anything that was easily available 5 we would have looked at, but I do not remember the 6 Burger King issues.</b> 7 MR. MURRAY: Are you switching gears? You 8 want to take a break? We've been going for an hour and 9 I've -- 10 MR. FONTECILLA: Do you want to take a 11 break? 12 THE WITNESS: I mean, I would like to take 13 a short break. 14 (Recess 3:04 p.m. to 3:12 p.m.) 15 Q. (BY MR. FONTECILLA) Mr. Lawrence, are you 16 aware of whether the UEP guidelines evolved or changed 17 from 2002 until the time you left Safeway? 18 <b>A. I don't recall, no.</b> 19 Q. Do you recall ever being informed by anyone in 20 your group or by Mr. Brian Dowling about -- or by egg 21 suppliers, or by UEP, or by anyone, whether there had 22 been a change to the UEP guidelines? 23 <b>A. No, I don't. No, I don't.</b> 24 Q. Was someone in the QA group tasked with making 25 sure that they were kept abreast of or updated or</p>
<p style="text-align: right;">167</p> <p>1 Producers' scientific advisory committee's recommended 2 guidelines for laying hens." 3 Do you see that? 4 <b>A. Yes.</b> 5 Q. And then the next paragraph it says, "With 6 respect to cage space, the UEP's scientific advisory 7 committee recommended a minimum of 72 square inches of 8 usable floor space per bird in chicken cages." And then 9 it says, "Burger King Corporation will exceed this 10 requirement and mandate a minimum of 75 square inches of 11 usable floor space per bird." 12 Do you see that? 13 <b>A. Yes.</b> 14 Q. Does this -- reading this document refresh your 15 recollection about whether you or the QA team considered 16 Burger King's animal welfare policies when evaluating 17 whether to adopt or use the UEP guidelines? 18 <b>A. I really don't remember that.</b> 19 Q. And sitting here today, would -- would it be 20 fair to say that it's likely that, as QA manager, you 21 would have considered all available information that was 22 available publicly about other people in the industry 23 adopting UEP guidelines? 24 MR. MURRAY: Object to the form of the 25 question, calls for speculation.</p>	<p style="text-align: right;">169</p> <p>1 knowledgeable on what the existing UEP guidelines 2 required? 3 <b>A. No, I don't believe so. We were just concerned 4 with compliance.</b> 5 Q. And you were -- by compliance, you mean you 6 were concerned that the egg suppliers were complying 7 with the UEP guidelines? 8 <b>A. Right, that we received the yearly 9 certification that, you know, would be in place.</b> 10 Q. What was your view of the UEP guidelines when 11 you first decided to use them as part of Safeway's egg 12 specifications? 13 MR. MURRAY: Object to the form of the 14 question, overly broad. 15 <b>A. Could you be a little more specific with my 16 view -- my view of them?</b> 17 Q. (BY MR. FONTECILLA) I can't. 18 <b>A. They were, minimally, improvements in the 19 overall conditions of the birds. They did reduce 20 crowding, but the crowding was still significant. The 21 conditions and heat under which they were held was -- 22 was still -- it was reduced, but was still strong, but 23 it was an improvement.</b> 24 Q. And how did that view change from the time you 25 first started using the UEP guidelines to when you left</p>

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<p style="text-align: right;">170</p> <p>1 Safeway in 2009?</p> <p>2 <b>A. Not a real significant change, no.</b></p> <p>3 Q. What is your view today of the UEP guidelines?</p> <p>4 MR. MURRAY: Objection, lack of foundation.</p> <p>5 <b>A. I'm not sure what the UEP guidelines are today.</b></p> <p>6 Q. (BY MR. FONTECILLA) Did you ever attend any</p> <p>7 conferences where the UEP guidelines were discussed?</p> <p>8 <b>A. Not to my recollection, no.</b></p> <p>9 Q. Did any of the employees under your supervision</p> <p>10 attend conferences where the UEP guidelines were</p> <p>11 discussed?</p> <p>12 MR. MURRAY: Objection, lack of foundation.</p> <p>13 <b>A. Not to my knowledge, no.</b></p> <p>14 Q. (BY MR. FONTECILLA) Since you've left Safeway,</p> <p>15 have you read anything regarding the UEP guidelines?</p> <p>16 <b>A. No, I don't believe I have. Maybe with</b></p> <p>17 <b>references to the votes in California, but nothing --</b></p> <p>18 <b>nothing within the last four years for sure.</b></p> <p>19 Q. What is your understanding of -- if any, of the</p> <p>20 litigation that is currently proceeding by Safeway</p> <p>21 against some of the Defendants in this case?</p> <p>22 MR. MURRAY: Before you answer that, if</p> <p>23 your answer would require to reveal something you've</p> <p>24 learned only from counsel, please don't convey any of</p> <p>25 that information. If you have an understanding</p>	<p style="text-align: right;">172</p> <p>1 which any Defendant joined or became an alleged member</p> <p>2 of the conspiracy that's alleged by Safeway in this</p> <p>3 case?</p> <p>4 <b>A. No.</b></p> <p>5 Q. Do you have any knowledge about the allegation</p> <p>6 by Safeway that the UEP certified program was designed</p> <p>7 or implemented to limit the supply of eggs?</p> <p>8 <b>A. No.</b></p> <p>9 Q. Would you agree with the proposition that the</p> <p>10 UEP certified program was designed or implemented in any</p> <p>11 way to limit the supply of eggs?</p> <p>12 MR. MURRAY: Objection, lack of foundation.</p> <p>13 <b>A. I -- I wouldn't know.</b></p> <p>14 Q. (BY MR. FONTECILLA) Based on your knowledge,</p> <p>15 would you agree with the proposition that the UEP</p> <p>16 certified program was designed or implemented to limit</p> <p>17 the supply of eggs?</p> <p>18 MR. MURRAY: Objection, asked and answered,</p> <p>19 lack of foundation.</p> <p>20 <b>A. I -- I really wouldn't know.</b></p> <p>21 Q. (BY MR. FONTECILLA) I kind of need an answer</p> <p>22 to my question.</p> <p>23 MR. MURRAY: He did -- he did answer it.</p> <p>24 <b>A. From a quality assurance standpoint, I was only</b></p> <p>25 <b>concerned with the animal treatment on it. I -- as to</b></p>
<p style="text-align: right;">171</p> <p>1 independent of any conversations you've had with your</p> <p>2 lawyers, you can feel free to answer.</p> <p>3 <b>A. Yeah. Just in the -- the document I've</b></p> <p>4 <b>received asking me to be here today it stated that there</b></p> <p>5 <b>was a class action suit against a number of suppliers.</b></p> <p>6 Q. (BY MR. FONTECILLA) Before your counsel</p> <p>7 informed you that you had to obey the subject of the</p> <p>8 deposition notice, which is --</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. -- the document --</p> <p>11 <b>A. No, thank you.</b></p> <p>12 Q. -- had you -- did you know that the</p> <p>13 litigation -- that this litigation or a litigation in</p> <p>14 the egg industry existed?</p> <p>15 <b>A. No.</b></p> <p>16 Q. Do you have any knowledge about the contention</p> <p>17 in this litigation that egg producers conspired to</p> <p>18 reduce the supply of eggs in the United States?</p> <p>19 <b>A. I don't know anything about that, no.</b></p> <p>20 Q. Do you have any knowledge of the contention in</p> <p>21 this litigation that the alleged conspiracy resulted in</p> <p>22 higher prices for eggs and egg products?</p> <p>23 <b>A. Again, I don't know anything about pricing,</b></p> <p>24 <b>so...</b></p> <p>25 Q. And do you have any knowledge of the dates on</p>	<p style="text-align: right;">173</p> <p>1 <b>anything else, I wouldn't know.</b></p> <p>2 Q. (BY MR. FONTECILLA) Have you ever held the</p> <p>3 opinion that the UEP guidelines were designed to reduce</p> <p>4 flock size?</p> <p>5 MR. MURRAY: Object to the form of the</p> <p>6 question.</p> <p>7 <b>A. Reduce flock size in the house?</b></p> <p>8 Q. (BY MR. FONTECILLA) Yes.</p> <p>9 <b>A. Well, that would have -- the extra space would</b></p> <p>10 <b>have naturally reduced the flock size in the house.</b></p> <p>11 Q. And you understood that when you first decided</p> <p>12 to use the UEP guidelines as a requirement for all your</p> <p>13 egg suppliers?</p> <p>14 MR. MURRAY: Object to the form of the</p> <p>15 question.</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. (BY MR. FONTECILLA) What knowledge, if any, do</p> <p>18 you have about the supply, price, or demand for eggs or</p> <p>19 egg products at any time since 1999?</p> <p>20 <b>A. None.</b></p> <p>21 Q. Have you -- what knowledge, if any, do you have</p> <p>22 about whether the supply of eggs or egg products</p> <p>23 decreased or increased at any time since 1999 as a</p> <p>24 result of any conduct by any of the suppliers to Safeway</p> <p>25 of eggs or egg products?</p>

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<p style="text-align: right;">174</p> <p>1 <b>A. I have none.</b></p> <p>2 Q. Did Safeway's QA team send representatives to</p> <p>3 FMI meetings to discuss animal welfare guidelines at any</p> <p>4 time?</p> <p>5 <b>A. My -- I don't know about the other QA team, but</b></p> <p>6 <b>mine did not go.</b></p> <p>7 Q. Safeway's -- or your QA team group or team was</p> <p>8 responsible for establishing and monitoring the</p> <p>9 requirements for Safeway's egg suppliers, right?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. And when you selected the UEP guidelines as the</p> <p>12 program that your QA team would use for Safeway's egg</p> <p>13 suppliers, you made that selection after considering all</p> <p>14 the alternative animal welfare programs that were</p> <p>15 otherwise available to you?</p> <p>16 MR. MURRAY: Object to the form of the</p> <p>17 question, lack of foundation.</p> <p>18 <b>A. We -- we did -- I can't say whether we looked</b></p> <p>19 <b>at all of them or not. We looked at a couple and</b></p> <p>20 <b>compared them, but it was a quick check. This was</b></p> <p>21 <b>pretty much the way the industry was going, and we</b></p> <p>22 <b>thought it was a pretty small part of what we were</b></p> <p>23 <b>doing, so...</b></p> <p>24 Q. (BY MR. FONTECILLA) Your QA team was</p> <p>25 responsible for overseeing the compliance by Safeway's</p>	<p style="text-align: right;">176</p> <p>1 Q. Other than what we've discussed today, do you</p> <p>2 have any other knowledge or opinions about the</p> <p>3 UEP guidelines?</p> <p>4 MR. MURRAY: Object, overly broad.</p> <p>5 <b>A. No.</b></p> <p>6 MR. FONTECILLA: Okay. I have no further</p> <p>7 questions.</p> <p>8 MR. MURRAY: I've just got a couple.</p> <p>9 EXAMINATION</p> <p>10 BY MR. MURRAY:</p> <p>11 Q. Mr. Lawrence, as the manager and later director</p> <p>12 of the quality assurance group at Safeway, are you aware</p> <p>13 of any suppliers of eggs -- shelled eggs to Safeway that</p> <p>14 adopted the UEP guidelines at your request?</p> <p>15 MR. FONTECILLA: Objection to the form of</p> <p>16 the question.</p> <p>17 <b>A. No. They were all basically certified when we</b></p> <p>18 <b>brought them on, so...</b></p> <p>19 Q. (BY MR. MURRAY) Okay. With the possible</p> <p>20 exception of Kreider Farms, did the quality assurance</p> <p>21 group remove any suppliers of shelled eggs from the</p> <p>22 approved vendors list because they didn't comply with</p> <p>23 the UEP guidelines?</p> <p>24 MR. FONTECILLA: Objection to the form of</p> <p>25 the question.</p>
<p style="text-align: right;">175</p> <p>1 egg suppliers with Safeway's animal welfare</p> <p>2 requirements?</p> <p>3 <b>A. We -- we were -- we were verifying, making sure</b></p> <p>4 <b>that they did, yes.</b></p> <p>5 Q. And as QA manager, you were in charge, during</p> <p>6 the time you were a QA manager, of overseeing the team</p> <p>7 that did that monitoring?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. And when you were QA director, that role was</p> <p>10 the same?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. And no one else during that time had -- could</p> <p>13 direct you on how to manage your team?</p> <p>14 <b>A. No one could direct me or --</b></p> <p>15 Q. Was there anyone else?</p> <p>16 <b>A. My -- yes. Yes, my boss and --</b></p> <p>17 Q. Okay. Who was your boss?</p> <p>18 <b>A. Mark Salimbeni could have, but...</b></p> <p>19 Q. And did he ever, during the time, instruct you</p> <p>20 to change or adopt any type of animal welfare standards</p> <p>21 for egg suppliers?</p> <p>22 <b>A. No, he didn't.</b></p> <p>23 Q. What -- what was the exact date that you left</p> <p>24 Safeway?</p> <p>25 <b>A. May 30th, 2009.</b></p>	<p style="text-align: right;">177</p> <p>1 <b>A. Not that -- any of which I'm aware --</b></p> <p>2 Q. (BY MR. MURRAY) Okay.</p> <p>3 <b>A. -- or that I can recall.</b></p> <p>4 Q. All right. If you can look at Exhibit No. 3.</p> <p>5 It's the second or --</p> <p>6 <b>A. Yeah.</b></p> <p>7 Q. Okay. Do you have any reason to doubt the</p> <p>8 accuracy of Mr. Gene Gregory's statement that, as of</p> <p>9 December 18th, 2002, 80 percent of the entire US egg</p> <p>10 industry was recognized by the UEP as an Animal Care</p> <p>11 certified company?</p> <p>12 MR. FONTECILLA: Objection to the</p> <p>13 characterization of the document, misstates -- the</p> <p>14 document speaks for itself, and objection to the form of</p> <p>15 the question.</p> <p>16 <b>A. No, I don't have any --</b></p> <p>17 MR. MURRAY: I don't have any further --</p> <p>18 <b>A. -- reason to doubt.</b></p> <p>19 MR. MURRAY: -- questions.</p> <p>20 You're done.</p> <p>21 (Discussion off the record.)</p> <p>22 THE REPORTER: Does he want to read and</p> <p>23 sign?</p> <p>24 MR. MURRAY: Yes.</p> <p>25 THE REPORTER: To you or directly to him?</p>

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## HIGHLY CONFIDENTIAL

Lawrence, David

July 11, 2014

46 (Pages 178 to 180)

<p style="text-align: right;">178</p> <p>1 MR. MURRAY: Send it to me. I will send it</p> <p>2 to my client.</p> <p>3 MR. FONTECILLA: Mr. Lawrence, thank you</p> <p>4 for your patience today.</p> <p>5 (Proceedings concluded at 3:25 p.m.)</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">180</p> <p>1 STATE OF TEXAS )</p> <p>2 COUNTY OF DALLAS )</p> <p>3</p> <p>4 I, GAIL SPURGEON, Certified Shorthand Reporter</p> <p>5 in and for the State of Texas, certify that the</p> <p>6 foregoing deposition of DAVID LAWRENCE was reported by</p> <p>7 me stenographically at the time and place indicated,</p> <p>8 said witness having been placed under oath by me, and</p> <p>9 that the transcript is a true record of the testimony</p> <p>10 given by the witness.</p> <p>11 I further certify that review by the witness</p> <p>12 and signature were requested at the time of taking this</p> <p>13 deposition.</p> <p>14 I further certify that I am neither counsel</p> <p>15 for nor related to any party in this cause</p> <p>16 and am not financially interested in its outcome.</p> <p>17 Given under my hand this the _____ day of</p> <p>18 _____, 2014.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">_____ GAIL SPURGEON Texas CSR 1718 Expiration Date: 12/31/15 Henderson Legal Services 1015 15th Street, NW Suite 525 Washington, DC 20005 877.548.8787</p>
<p style="text-align: right;">179</p> <p>1 SIGNATURE BY WITNESS</p> <p>2 I, DAVID LAWRENCE, have read the foregoing</p> <p>3 deposition and hereby affix my signature that same is</p> <p>4 true and correct, except as noted above.</p> <p>5</p> <p>6 _____</p> <p>7 DAVID LAWRENCE</p> <p>8</p> <p>9 THE STATE OF _____ )</p> <p>10 COUNTY OF _____ )</p> <p>11 Before me, _____, on this day</p> <p>12 personally appeared DAVID LAWRENCE, known to me (or</p> <p>13 proved to me under oath or through _____</p> <p>14 (description of identity card or other document) to be</p> <p>15 the person whose name is subscribed to the foregoing</p> <p>16 instrument and acknowledged to me that they executed the</p> <p>17 same for the purposes and consideration therein</p> <p>18 expressed.</p> <p>19 Given under my hand and seal of office this</p> <p>20 _____ day of _____, 2014.</p> <p>21</p> <p>22</p> <p>23</p> <p>24 _____</p> <p>25 NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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